Summary of SC100376, *Benjamin Ramirez, Individually and on Behalf of All Others Similarly Situated v. Missouri Prosecuting Attorneys' & Circuit Attorneys' Retirement System, et al.*

Appeal from the Jackson County circuit court, Judge Cory L. Atkins
Argued and submitted May 14, 2024; opinion issued July 9, 2024

Attorneys: Ramirez was represented by Samuel Wendt and Nick Hillyard of Wendt Law Firm PC in Kansas City, (816) 531-4415; and John F. Edgar and Ryan J. Loehr of Edgar Law Firm LLC in Kansas City, (816) 531-0033. The state officials were represented by Solicitor General Joshua M. Divine and Reed C. Dempsey of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A class representative appeals from the grant of summary judgment (judgment on the court filings, without a trial) in the state's favor on his unjust enrichment claim alleging certain statutory surcharges are unconstitutional. In a unanimous decision written by Judge Ginger K. Gooch, the Supreme Court of Missouri affirms the judgment. Sovereign immunity bars the unjust enrichment claim against the state.

Facts: Benjamin Ramirez, on behalf of a putative class, sued the state director of revenue and treasurer in their official capacities. In 2018 and 2019, Ramirez pleaded guilty in two criminal cases and paid court costs, including certain mandatory surcharges, which then were paid to seven state funds as authorized by statute. The state funds included the DNA profiling analysis fund, the brain injury fund, the independent living center fund, the motorcycle safety trust fund, the Missouri Office of Prosecution Services fund, the spinal cord injury fund, and the crime victims' compensation fund/services to victims fund. Ramirez alleged a single count of unjust enrichment and asserted the statutes authorizing the surcharges violate article I, section 14 of the Missouri Constitution, which provides the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay. The director and treasurer moved for summary judgment, asserting, in part, that Ramirez's suit is barred by sovereign immunity and the statutes authorizing the surcharges do not violate the state constitution. The circuit court sustained the motion, concluding the statutes authorizing the surcharges are constitutionally valid. Ramirez appeals.

AFFIRMED.

Court en banc holds: Sovereign immunity bars Ramirez's unjust enrichment suit against the director and treasurer. Sovereign immunity applies to non-tort claims, such as Ramirez's claim for unjust enrichment. The state has not expressly consented to waive sovereign immunity from such claims, by statute or otherwise; nor has Ramirez established sovereign immunity was waived by implied consent. This Court never has held that consent to waive sovereign immunity may be implied based only on the nature of a claim as equitable or quasi-contractual. Such a holding would be contrary to this Court's precedent recognizing sovereign immunity as the rule, not the exception.