Summary of SC100878, *In re: Circuit Attorney, 22nd Judicial Circuit ex rel. Christopher Dunn*

Appeal from the St. Louis City circuit court, Judge Jason M. Sengheiser
Argued and submitted February 11, 2025; opinion issued April 15, 2025

Attorneys: The state was represented by Gregory M. Goodwin of the attorney general's office in Jefferson City, (573) 751-3321. The circuit attorney was represented by Booker T. Shaw, Layla F. Husen and Rachael Moore of Thompson Coburn LLP in St. Louis, (314) 552-6000. Dunn was represented by Rachel K. Wester and Tricia J Rojo Bushnell of the Midwest Innocence Project in Kansas City, (816) 931-4929; Jonathan B. Potts and Isabel Guariglia of Bryan Cave Leighton Paisner LLP in St. Louis, (314) 259-2403; and Justin C. Bonus, an attorney in Forest Hills, New York, (347) 920-0160.

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: The state appeals from the circuit court's judgment vacating a man's 1991 convictions. In a 4-3 decision written by Judge Ginger K. Gooch, the Supreme Court of Missouri retransfers the case to the court of appeals. Because the state is a party to the proceedings under section 547.031, RSMo, to set aside criminal convictions and is aggrieved when convictions are vacated, the state has the right to appeal under section 512.020, RSMo. The court of appeals, on retransfer, is to overrule the circuit attorney's motion to dismiss the appeal and proceed with the state's appeal on the merits.

Judge W. Brent Powell dissents. He would find, because section 547.031 motions to vacate or set aside criminal convictions are special statutory proceedings, the general right to appeal in civil matters under section 512.020 does not apply; therefore, the state lacks the right to appeal in this matter.

Facts: In July 1991, a jury found Christopher Dunn guilty of first-degree murder, two counts of first-degree assault, and three counts of armed criminal action. The circuit court entered judgment accordingly and sentenced Dunn, as a prior and persistent offender, to consecutive sentences of life in prison without parole for the murder offense, 30 years for each of the assault offenses, and 10 years for each of the armed criminal action offenses. In February 2024, the St. Louis circuit attorney filed a section 547.031motion to vacate or set aside Dunn's convictions. The attorney general entered his appearance and opposed the motion. After an evidentiary hearing, the circuit court concluded the circuit attorney had established "a clear and convincing showing of 'actual innocence' that undermines the basis for Dunn's convictions because in light of the new evidence, no juror, acting reasonably, would have voted to find Dunn guilty of these crimes beyond a reasonable doubt." The circuit court sustained the motion, entered judgment vacating Dunn's convictions, and ordered his immediate discharge from custody. After writ proceedings before this Court, the circuit court entered an amended judgment vacating its order requiring Dunn's immediate release. The circuit attorney then dismissed the charges pending against Dunn as a result of the convictions being vacated, and the state released Dunn from

prison. The attorney general appealed. The circuit attorney moved to dismiss the appeal, asserting the state has no right to appeal under section 547.031. The court of appeals issued a show-cause order directing the parties to address whether the appeal should be dismissed. This Court granted the attorney general's request to transfer the case to this Court prior to opinion by the court of appeals.

CAUSE RETRANSFERRED.

Court en banc holds: The state has the right to appeal under section 512.020 when a circuit court vacates or sets aside a conviction pursuant to section 547.031. Section 512.020(5) grants any aggrieved party in a civil action the right to appeal from a final judgment or a special order after final judgment. The state is a party to the suit because section 547.031 motions must be brought against the state. The state is aggrieved by the circuit court's amended judgment vacating Dunn's convictions because the state has an interest in the finality of convictions. The language in section 547.031.4 regarding appeals does not alter this analysis; rather, such language acknowledges this Court's precedent regarding prosecuting and circuit attorneys' lack of a right to an appeal and grants them the right to now appeal in such matters.

Dissenting opinion of Judge Powell: The author disagrees and would find Missouri law does not authorize the attorney general to appeal the circuit court's disposition of a section 547.031 motion. He believes section 547.031 is a special statutory proceeding that clearly limits the attorney general's right to appeal; therefore, section 512.020 does not apply.