In the Missouri Court of Appeals
Eastern District

WRIT DIVISION SEVEN

STATE OF MISSOURI, EX REL., CHRISTOPHER BANK, RELATOR,	)	ED114506
v.	)	Writ of Prohibition
THE HONORABLE WILLIAM BYRNES, RESPONDENT.	)	Filed: June 2, 2026

Saint Charles County Circuit Court
Cause Number 2511-MU00119

Introduction

Christopher Bank ("Relator") was convicted of a City of St. Peters' ("the City") municipal ordinance violation. He timely applied for a trial *de novo*. At the trial *de novo*, Relator timely requested a jury trial, which the Honorable William Byrnes ("the circuit court") denied. Relator now seeks a permanent writ of prohibition ordering the circuit court to set aside its order denying his jury trial request.

Because Relator had the right to a jury trial at the trial *de novo* after it was timely requested, the circuit court lacked authority to deny his request. Accordingly, this Court

dispenses with further briefing and oral argument under Rule 84.24(i) and issues our permanent writ of prohibition.[1]

Factual and Procedural History

Relator lives in the City and grows sunflowers in his front yard. Ordinance No. 405.390A.4 states:

> [N]o less than seventy percent (70%) of a front yard, exclusive of any paved surface or sidewalk, shall be comprised of turf grass. Plants, flowers, or agricultural crops grown in a yard, including any incidental turf grass located between such plants, flowers, or agricultural crops, shall not be considered comprised of turf grass for the measurements required herein.

Ordinance No. 100.060.A states,

> Except as hereinafter provided … where no specific penalty is provided therefor, the violation of any such provision … shall be punished by a fine not exceeding five hundred dollars ($500.00), or by imprisonment for a period of not exceeding ninety (90) days, or by both such fine and imprisonment.

Ordinance No. 405.815.A.1 provides the specific penalty for violating Ordinance No. 405.390A.4:

> shall be … punishable by a fine of not less than ten dollars ($10.00) and not more than two hundred fifty dollars ($250.00) for each and every day that such violation continues or by imprisonment for ten (10) days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.

Finally, Ordinance No. 100.060.D states, "Each day any violation of this Code or any other City ordinance or rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided."

[1] All rule references are to the Missouri Supreme Court Rules (2025).

The City issued Relator a citation for "exceeding the planting area in front yard." After a municipal division bench trial, Relator was found guilty and ordered to pay a $168.50 fine. On the same day the municipal division judgment was entered, Relator asked for a trial *de novo*. Relator timely requested a jury trial. The circuit court denied Relator's request without explanation.

Relator filed this petition for writ of prohibition to prevent the circuit court from enforcing its order denying his request for a jury trial. This Court entered a preliminary writ in prohibition instructing the circuit court to refrain from all action until further notice. The City filed suggestions in opposition on the circuit court's behalf. Relator was granted leave to file reply suggestions.

Standard of Review

"Prohibition is an extraordinary remedy this Court issues with 'great caution and forbearance and only in cases of extreme necessity.'" *State ex rel. Hanaway v. Helfrich*, 723 S.W.3d 931, 932 (Mo. App. E.D. 2025) (quoting *State ex rel. T.J. v. Cundiff*, 632 S.W.3d 353, 355 (Mo. banc 2021)). "A writ of prohibition is discretionary." *Id.* A writ of prohibition is appropriate:

> (1) to prevent the usurpation of judicial power when a lower court lacks authority or jurisdiction; (2) to remedy an excess of authority, jurisdiction or abuse of discretion where the lower court lacks the power to act as intended; or (3) where a party may suffer irreparable harm if relief is not granted.

State ex rel. Bailey v. Sengheiser, 692 S.W.3d 20, 22 (Mo. banc 2024) (internal quotation omitted) (quoting *State ex rel. Monsanto Co. v. Mullen*, 672 S.W.3d 235, 239 (Mo. banc 2023)). "A writ in prohibition is appropriate when a [circuit] court improperly denies the

right to a trial by jury." *State ex rel. Barker v. Tobben*, 311 S.W.3d 798, 800 (Mo. banc 2010) (quoting *State ex rel. Leonardi v. Sherry,* 137 S.W.3d 462, 473 (Mo. banc 2004)).

Discussion

Right to a Jury Trial at a Trial De Novo

Party Positions

Relator argues he has an unequivocal right to a jury trial at a trial *de novo* under the Missouri constitution, *State ex rel. Estill v. Iannone*, 687 S.W.2d 172 (Mo. banc 1985), and Rule 37.74. The City contends Relator does not have a right to a jury trial because he is charged with a petty offense and the City is not seeking incarceration. The City further argues a statutory right to a jury trial only arises when the charged municipal offense is also classified by Missouri law as a misdemeanor or a "state law equivalent." Because Relator's offense is an infraction with no state law equivalent, the City maintains he has no right to a jury trial.

Analysis

"The Sixth Amendment provides that 'in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury …' and Missouri Constitution Article I, section 22(a) states that 'the right of trial by jury as heretofore enjoyed shall remain inviolate ….'" *State ex rel. Cole v. Nigro*, 471 S.W.2d 933, 934 (Mo. banc 1971) (citation modified). Relator is proceeding with a trial *de novo*. "In both procedural and substantive terms, a trial de novo in the circuit court of a prosecution first initiated in the municipal court for the violation of a city ordinance proceeds as an original cause in the circuit court." *City of Kan. City v. Johnney*, 760 S.W.2d 930, 931

(Mo. App. W.D. 1988). Stated differently, "[t]he trial de novo proceeds as if no action had been taken in the municipal division and as though the case had originated in the de novo court rather than in the municipal court." *City of Springfield v. Coffman*, 979 S.W.2d 212, 215 (Mo. App. S.D. 1998) (quoting *Johnney*, 760 S.W.2d at 931).

The City urges this Court to adopt *Cole*'s reasoning to find Relator has no right to a jury trial. In *Cole*, the Supreme Court of Missouri addressed a relator's right "to have a trial by jury on a charge pending … in the [m]unicipal [c]ourt …." *Cole*, 471 S.W.2d at 934. After analyzing United States Supreme Court and Missouri precedent, *Cole* stated:

> [T]he rule in this state has always been that there is no constitutional right to a trial by jury in municipal ordinance prosecutions. And relator is not entitled to a jury trial by reason of *Baldwin* since the maximum period of imprisonment she may receive does not exceed six months. *Baldwin* requires, however, that the Missouri rule be modified to provide that in municipal court prosecutions where the maximum period of imprisonment exceeds six months a jury trial must be provided upon demand.

Cole, 471 S.W.2d at 936 (quotation modified). *Cole* relied on *Baldwin v. New York*, 399 U.S. 66 (1970), in which the United States Supreme Court recognized "the long-established view that so-called 'petty offenses' may be tried without a jury" which was reaffirmed in *Duncan v. Louisiana*, 391 U.S. 145, 159 (1968). *Baldwin*, 399 U.S. at 68. *Baldwin* found "a possible six-month penalty is short enough to permit classification of the offense as 'petty.'" *Id.* at 69. *Baldwin* explained, "Where the accused cannot possibly face more than six months' imprisonment, we have held that these disadvantages, onerous though they may be, may be outweighed by the benefits that result from speedy and inexpensive nonjury adjudications." *Id.* at 73. The City relies on

Cole and *Baldwin* to buttress its argument Relator has no right to a jury trial because his municipal violation is petty and the City is not seeking to incarcerate him if convicted.[2]

Relator acknowledges *Cole*'s holding, but argues *Estill* applies here. In *Estill*, the Supreme Court of Missouri addressed "whether the relator, convicted in municipal court of violating a city ordinance, is entitled to a trial by jury upon her appeal to the circuit court." *Estill*, 687 S.W.2d at 173.[3] The relator was convicted of three municipal trespassing violations and sought a trial *de novo* in the circuit court. *Id.* Before reaching the merits, the Court stated:

> At the outset, it is necessary to distinguish *Cole*, which holds that there is no constitutional right to a jury trial in a municipal ordinance violation proceeding. The present case concerns the relator's right to a jury trial upon appeal, rather than in an initial proceeding. And here no constitutional provisions are addressed. Instead, this Court is satisfied that under the pertinent statute, the rules of procedure and prior decisions, the relator is entitled to a jury trial, and her request for that procedure must be granted.

Id. (internal citation omitted). *Estill* recognized "the hoard of appellate decisions which state that upon docketing of an appeal in the circuit court, the case is governed by the rules of criminal procedure." *Id. Estill* cited Rule 37.84, the predecessor to Rule 37.74,

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[2] As part of this argument, the City states it is constrained by Ordinance No. 100.060.A, which limits the maximum term of imprisonment not to exceed 90 days, indicating this is a "petty" offense. The City's reliance on this ordinance is misplaced. Ordinance No. 100.060.A is a general penalty provision which applies when no specific punishment is stated for a particular municipal violation. Here, Ordinance No. 405.815.A.1 specifies the punishment for zoning and subdivision violations, rendering Ordinance No. 100.060.A inapplicable. Further, Ordinance No. 100.060.D states continuing violations constitute separate offenses, which potentially could result in a term of imprisonment exceeding 90 days.

[3] *Estill* recognized the "conceptual difference between the terms 'appeal' and 'trial de novo,'" but chose to use them interchangeably in the opinion.

which previously stated cases appealed from a municipal division to the circuit court "shall be heard, tried, and determined de novo in such circuit or other court *as though the prosecution had originated in such court*." *Id.* at 173–74 (emphasis in original). *Estill* acknowledged Rule 27.01(a), which provides, "All issues of fact in any criminal case shall be tried by a jury to be selected, summoned and returned in the manner prescribed by law, unless trial by jury be waived as provided in this Rule." *Estill* noted "municipal ordinance violations are more akin to misdemeanors or infractions" so "the proper procedure calls for the appellant to request a jury trial." *Id.* at 174. "In other words, trial by jury is not automatic, and if the appellant does not make written demand for a jury trial, the case may be bench tried." *Id.* (footnote omitted). This ruling "was consistent with prior decisions holding that it is error to deny a jury request in a trial de novo on appeal from a municipal court conviction." *Id.* Nor was this "a new procedure but one adopted and consistently utilized" by those prior decisions. *Id.* at 175. *Estill* concluded the circuit court acted outside of its authority when it denied the relator's request for a jury trial and issued a writ of prohibition. *Id.*

The City's suggestions in opposition do not address—much less try to distinguish—*Estill* which is directly on point. *Estill* explicitly confines *Cole*'s holding to original municipal violation proceedings in the municipal division. *Estill*, 687 S.W.2d at 173; *see also City of Maplewood v. Marti*, 891 S.W.2d 500, 503 (Mo. App. E.D. 1994) (recognizing "most municipal ordinance violations do not carry a 'right to a trial by jury' at an initial proceeding unless provided by law," citing *Cole* and stating "[t]his is a separate issue from the right to a jury on appeal *de novo*," citing *Estill*). *Cole* and *Baldwin*

do not deprive Relator of his right to a jury trial at a trial *de novo*; *Estill* explicitly holds this right exists.

Instead, the City argues section 479.130, RSMo 2016, provides a statutory right to a jury trial only when the municipal offense is also classified by Missouri law as a misdemeanor. Section 479.130 states, "Any person charged with the violation of a municipal ordinance of a city of the third or fourth class shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an associate circuit judge." The City reads the phrase, "as in prosecutions for misdemeanors before an associate circuit judge" to mean no statutory right to a jury trial exists when the underlying conduct is purely a municipal infraction and is not a misdemeanor under state law.

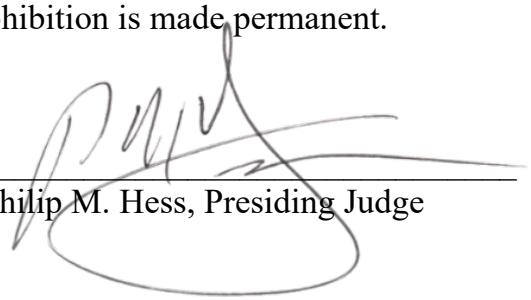
The City misreads this statute for three reasons. First, section 479.130 is in Chapter 479, which governs "Municipal Courts and Traffic Courts." Because Relator is no longer in the municipal division, this statute does not govern his trial *de novo* in the circuit court. *City of Strafford v. Croxdale*, 272 S.W.3d 401, 405 (Mo. App. S.D. 2008) (explaining this statute applies when a defendant makes an initial demand for a jury trial in the municipal division). Second, even if this statute could apply to Relator—which this Court holds it does not—*Croxdale* explained the City's emphasized language from section 479.130 meant "all further proceedings in the case would be governed by the rules of criminal procedure applicable to misdemeanor prosecutions." *Id.* Third, the statute's plain language does not support the City's position because nothing in the statute contemplates the right to a jury trial at a trial *de novo* hinges on whether the municipal infraction is a misdemeanor under state law. Finally, the City's argument

Relator has no right to a jury trial because this municipal violation has no "state law equivalent" fails because the City cites no authority for this proposition.

Consistent with *Estill*, this Court holds Relator has the right to a jury trial at his trial *de novo* because he made a timely request. The City does not respond to Relator's reliance on Rule 37.74, which states, "All trials de novo shall proceed in the manner provided for the trial of a misdemeanor by the rules of criminal procedure" or Rule 27.01(a), one such rule of criminal procedure, which states all issues of fact shall be tried to a jury unless the right to a jury trial is waived, which Relator explicitly did not do. Because Relator made a timely request, the circuit court exceeded its authority in denying his request for a jury trial and prohibition must lie. *Estill*, 687 S.W.2d at 175.

Conclusion

This Court's preliminary writ of prohibition is made permanent.



Philip M. Hess, Presiding Judge

Gary M. Gaertner, Jr., Judge and
Virginia W. Lay, Judge concur.