# Missouri Court of Appeals
## Southern District

**In Division**

STATE OF MISSOURI EX REL.
SARAH M. PRETTYMAN,

Relator,

v.

THE HONORABLE LYNETTE VEENSTRA,

Respondent.

Case Number SD39402

**Filed: September 4, 2026**

ORIGINAL PROCEEDING IN PROHIBITION

**PRELIMINARY WRIT OF PROHIBITION MADE PERMANENT**

Does a circuit court have authority to hold a parole revocation hearing and revoke a parole order granted by the Board of Probation and Parole (the "Board") for a parolee who has been sentenced to and is in the legal custody of the Missouri Department of Corrections? We agree with Relator that circuit courts have no statutory parole revocation authority in these circumstances, and we hereby make permanent our preliminary writ prohibiting Respondent from taking any further action in Relator's criminal case.

## Background

In April of 2023, Relator pleaded guilty to the class E felony of passing a bad check. She was sentenced to four years in the Missouri Department of Corrections and ordered to pay, as a condition of parole, $9,330.28 in restitution at a rate of $400 per month beginning 30 days after she was released from incarceration.

Eight months after being received by the Department of Corrections, the Board conditionally released Relator on parole pursuant to § 217.690.[1] One of the conditions of her release was that she pay restitution as previously ordered by the circuit court.

In June of 2025, the State moved to revoke Relator's parole, alleging that she had paid only $60 toward her court-ordered restitution. The motion was filed with the circuit court in the criminal case in which Relator had pleaded guilty and had been sentenced. A summons was issued for a parole violation hearing; it was returned *non-est*. Respondent issued a warrant for Relator's arrest after she failed to appear twice. The Division of Probation and Parole contacted the court and, without objection by the State, the warrant was withdrawn, but the motion to revoke parole remained pending.

Relator filed with this court a petition for a writ of prohibition, seeking to prohibit Respondent from revoking Relator's parole or proceeding in the criminal case. We

[1] Statutory references are to RSMo. (Cum. Supp. 2021) unless otherwise indicated.

entered a preliminary writ prohibiting Respondent from taking any further action in the criminal case.

**Discussion**

We have jurisdiction to issue original remedial writs pursuant to article V, section 4 of the Missouri Constitution. Before doing so, we are required to consider whether a remedial writ is authorized and appropriate. ***State ex rel. Anderson v. Preyer***, 720 S.W.3d 675, 682 (Mo.App. S.D. 2025). "A writ of prohibition is an extraordinary remedy and must be used with caution." ***State ex rel. Hanaway v. Hellmann***, 728 S.W.3d 410, 412 (Mo. banc 2026), *as modified* (Feb. 24, 2026). Among other reasons, a writ of prohibition is appropriate "to avert the usurpation of power when a lower court lacks authority or jurisdiction[.]" ***Id.*** If Respondent lacks authority or jurisdiction to hold a parole revocation hearing to determine whether to revoke Relator's Board-granted parole, then a writ prohibiting Respondent from taking further action in the criminal case is an authorized and appropriate remedy.

Circuit courts and the Board have a cooperative relationship, § 217.655.1, but they generally do not share overlapping authority to make parole decisions. "Once judgment and sentencing occur in a criminal proceeding, the trial court has exhausted its jurisdiction. It can take no further action in that case except when otherwise expressly provided by statute or rule." ***State ex rel. Mertens v. Brown***, 198 S.W.3d 616, 618 (Mo. banc 2006) (citing ***State ex rel. Simmons v. White,*** 866 S.W.2d 443, 445 (Mo.

banc 1993)). Subject to an exception not applicable here, the statutory scheme provides that the circuit court retains jurisdiction over parole of a defendant sentenced to a county or municipal jail, but the court loses jurisdiction over parole of a defendant sentenced to the Department of Corrections. ***Duly v. Heflin***, 873 S.W.2d 932, 934-35 (Mo.App. W.D. 1994).

Where the circuit court's authority ends, the authority and responsibility of the Department of Corrections and the Board begins.[2] "The parole board shall be responsible for determining whether a person confined in the department shall be paroled or released conditionally as provided by section 558.011." Section 217.655.1. "All releases or paroles shall issue upon order of the parole board, duly adopted." Section 217.690.1. "Every offender while on parole shall remain in the legal custody of the [Department of Corrections] but shall be subject to the orders of the parole board." Section 217.690.2. At any time during a parolee's release on parole, the Division of Probation and Parole may issue a warrant for the arrest of the offender and the Board may extend the parolee's conditional release date. Section 217.720 RSMo. (Cum. Supp. 2018); § 558.011.5. In either event, the Board has authority to conduct hearings and to make final determinations. Section 217.720 RSMo. (Cum. Supp. 2018); § 558.011.5.

[2] Probation and Parole is a division of the Department of Corrections. Section 217.015.2 RSMo. (Cum. Supp. 2018). The Board receives administrative support from the Division of Probation and Parole, but it exercises independent decision making and consists of members appointed by the governor by and with the advice and consent of the senate. Sections 217.655.1 and 217.665.1.

These statutes "give the Board of Probation and Parole almost unlimited discretion to make parole determinations[.]" ***Green v. Black***, 755 F.2d 687, 688 (8th Cir. 1985).

Prettyman was sentenced to, was received by, and remains under the legal custody of the Department of Corrections. For offenders in these circumstances, the Board, not the circuit court, has the authority and responsibility to make parole determinations and enter orders and conditions of release accordingly. The Division of Probation and Parole, not the circuit court, has authority to issue an arrest warrant for a parolee's alleged noncompliance with the Board's conditions of parole. Whether the parolee has been noncompliant as alleged and the consequence of such noncompliance are determinations to be made by the Board, not by the circuit court.

Respondent acknowledges that the Board has exclusive authority to make the determination whether to grant Relator parole. Respondent argues that Chapter 217 is silent as to parole revocation, and that Chapter 559 establishes and provides for concurrent circuit court and Board authority to revoke parole for nonpayment of restitution, particularly since it is the circuit court's restitution order being enforced.

Chapter 559 establishes a system in which both the circuit courts and the Board have authority to make parole decisions, including parole revocation. The Board has "concurrent powers of probation and parole with the trial courts of the circuit" and "the same power and authority as that conferred upon the court … under the provisions of sections 559.012 to 559.036." Section 559.221 RSMo. (2016). That statute does not

operate in reverse; that is, it does not grant circuit courts the parole powers and authority of the Board. This allows for Division of Probation and Parole resources and services to be provided to felony offenders who have not been committed to the custody of the Department of Corrections. *See, e.g.*, § 217.750 RSMo. (Cum. Supp. 2018). No Missouri statute gives the circuit court concurrent and ongoing parole decision-making authority over a parolee after he or she has been committed to and received by the Missouri Department of Corrections.

A plain reading of Missouri's current statutes still supports the same general principle stated more than three decades ago in ***Duly***: authority to make parole decisions rests with the circuit court when an offender has been sentenced to serve time in a county or municipal jail, and authority rests with the Board when an offender has been committed to and is in the legal custody of the Missouri Department of Corrections. Chapters 217 and 559, read together and as a whole, provide a clear demarcation of parole decision-making authority and are not in conflict.

In this matter, restitution was ordered by the circuit court and, in compliance with § 559.105.3, was made a condition of Relator's parole. The issue is not an inability to bring the alleged nonpayment of court-ordered restitution to the attention of an entity with enforcement authority. Respondent acknowledges the enforcement mechanism provided in § 559.105: "The prosecuting attorney or circuit attorney may refer any failure to make such restitution as a condition of conditional release or parole

to the parole board for enforcement." (Emphasis added). This statute contemplates the involvement of the Board, not the circuit court, either in the first instance or as a second bite at the apple if the Board, having been advised of restitution noncompliance, declines to revoke parole.

**Conclusion**

The circuit court lacks authority to hold a parole revocation hearing or to revoke Board-granted parole for Relator, who has been committed to and remains in the legal custody of the Missouri Department of Corrections. Accordingly, we make our preliminary writ permanent. Respondent is prohibited from taking any further action in Relator's criminal case, *State v. Sarah M. Prettyman*, Wright County case number 23WR-CR00106-01.

JACK A. L. GOODMAN, J. – OPINION AUTHOR

MATTHEW P. HAMNER, J. – CONCURS

BRYAN E. NICKELL, J. – CONCURS