Missouri Court of Appeals, Western District

W. Douglas Thomson, Presiding Judge
Lisa White Hardwick, Judge
Mark D. Pfeiffer, Judge
Division 2

April 9, 2026
Truman State University
Kirksville, Missouri

WD87781
Teresa Colby #1265174 (29.15), Appellant-Respondent,
v.
State of Missouri, Respondent-Appellant.

Appellant-Respondent Teresa Colby appeals from the judgment of the Circuit Court of Henry County denying in part her motion for post-conviction relief. Respondent-Appellant State of Missouri appeals the circuit court's granting in part the same motion. In the underlying criminal case, Colby was charged, and found guilty of, first-degree robbery, first-degree assault, and kidnapping. Colby alleged that her involvement in the crimes was solely because she feared her husband and sought to put forward a battered spouse defense. Following a bench trial, the circuit court found Colby guilty of the charges. During sentencing, the circuit court noted that the battered spouse defense was a defense of duress and did not apply to Colby's case. Colby was sentenced as a persistent offender to twelve years' imprisonment. A direct appeal followed, and this Court affirmed the judgment. In her post-conviction case, Colby alleged that her trial counsel was ineffective for failing to have the court rule on the viability of the battered spouse defense before trial and for providing incorrect legal advice on the defense. Additionally, Colby alleged that her appellate counsel was ineffective for failing to raise a sufficiency of the evidence claim as to the kidnapping charge. The circuit court denied Colby's claims as to her battered spouse defense. The court, however, granted her motion as to the claim that her appellate counsel was ineffective in failing to raise a sufficiency of the evidence claim. Both Colby and the State appealed.

Appellant-Respondent's points on appeal:

1. The motion court clearly erred in denying claim 8/9(b) of Ms. Colby's 29.15 amended motion, in violation of her rights to due process of law and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, because a defendant is entitled to legally correct advice about the

applicability of a defense when considering whether to plead guilty or go to trial, in that trial counsel misadvised Ms. Colby that she had a legally viable battered spouse defense at trial, which caused her to reject the State's plea offer, resulting in prejudice.

2. The motion court clearly erred in denying claim 8/9(b) of Ms. Colby's 29.15 amended motion, in violation of her rights to due process of law and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, because a defendant is entitled to legally correct advice about the applicability of a defense when considering whether to plead guilty or go to trial, and trial counsel has a duty to investigate the legal viability of a defense, in that trial counsel failed to secure an in limine ruling in a bench trial as to whether battered spouse applied to Ms. Colby's case which resulted in trial counsel misadvising Ms. Colby that she had a legally viable battered spouse defense at trial, which caused her to reject the State's plea offer, resulting in prejudice.

Respondent-Appellant's point on appeal:

The motion court clearly erred in granting Claim 8(c) of the amended motion because there was sufficient evidence that Movant committed the statutory elements of kidnapping (Count III), in that the State proved that Movant and Husband unlawfully confined Victim without his consent for a substantial period for the purpose of facilitating the commission of a felony—first-degree robbery—and the State was not required to prove the surplus language in the charging document specifically identifying "stealing" as the felony Movant facilitated by confining Victim.

WD88234
Alexis Vollmar, M.D., et al., Respondents,
v.
Catherine L. Hanaway, et al., Appellants.

Appellants Catherine Hanaway and Kenneth Zellers appeal from the judgment of the Circuit Court of Jackson County which granted summary judgment in favor of Respondents Alexis Vollmar and Bilal Muzaffar. The judgment found that Missouri's Legal Expense Fund is obligated to pay for the defense of a malpractice lawsuit brought against Vollmar and Muzaffar and to cover any judgment or settlement, regardless of the existence of other malpractice insurance. As alleged in the circuit court, Vollmar and Muzaffar are physicians who contracted with Jackson County Public Health to provide medical care to indigent patients. Specifically, the doctors provide care related to pregnancy, delivery, and child care. Pursuant to their contracts, Vollmar and Muzaffar agreed to provide medical services without compensation, except for patient co-payments

required by law. In 2023, a patient sued Vollmar, Muzaffar, and others related to care she received during her labor and delivery. University Health tendered the defense of the claims to the Missouri Attorney General on behalf of Vollmar and Muzaffar. The Attorney General notified University Health that the Attorney General would not provide coverage for the suit because the physicians were either covered by University Health or the University of Missouri System. Vollmar and Muzaffar filed a petition for declaratory judgment against the Commissioner of the Missouri Office of Administration, Kenneth Zellers, and the Missouri Attorney General, Andrew Bailey, who has since been substituted for Catherine Hanaway, seeking a declaration that Missouri's Legal Expense Fund is obligated to pay for the defense of the lawsuit and to cover any judgment or settlement. Following motions for summary judgment filed by both sides, the circuit court entered summary judgment in favor of Vollmar and Muzaffar. This appeal followed.

Appellants' points on appeal:

1. The Circuit Court erred in denying Defendants' Motion for Summary Judgment and granting Plaintiffs' Motion for Summary Judgment, because Plaintiffs failed to establish they come within the Legal Expense Fund coverage established by § 105.711.2(3)(b), RSMo, in that Plaintiffs failed to establish what compensation that Plaintiffs received, and the Circuit Court improperly considered facts on summary judgment contained within Plaintiffs' attached affidavits that were not alleged in their statement of uncontroverted material facts and responses submitted under the numbered-paragraph-and-response framework set out in Rule 74.04(c)(1)-(4) to satisfy the missing element from Plaintiffs' claim.

2. The Circuit Court erred in granting Plaintiffs' Motion for Summary Judgment, because the Circuit Court misinterpreted and misapplied the plain statutory language of § 105.711, RSMo, in that the undisputed facts do not establish that an exception in § 105.711, RSMo, applies to provide Legal Expense Fund coverage to Plaintiffs Vollmar and Muzaffar for the underlying medical malpractice judgment.

WD88220
In the Interest of: I.J.L., and J.L.G.-G., Juveniles; Juvenile Officer, Respondent,
v.
L.M.G., Appellant.

Appellant L.M.G. ("Mother") appeals the judgments of the Circuit Court of Cole County finding that two of her children, I.J.L. and J.L.G.-G. should remain in the care and custody of Children's Division and that Children's Division is relieved of any efforts toward reunification. As alleged to the circuit court, Mother and her five children were staying at a hotel to celebrate one of her children's birthdays. At some point, her oldest

child, I.J.L,. who was eleven, locked himself in the bathroom of the hotel room and called 911. Police responded, found Mother to be intoxicated, and took all the children into protective custody. Mother was arrested for allegedly attempting to strangle I.J.L. and smothering J.L.G.-G. with a pillow. The Juvenile Officer filed petitions seeking to have the children kept in the care and custody of Children's Division. The circuit court found that the children should remain the custody of Children's Division and also ordered that Children's Division was relieved of any efforts towards reunification of I.J.L and J.L.G.-G. with Mother. This appeal followed.

Appellant's point on appeal:

> The juvenile court erred in relieving the Children's Division of making efforts towards reunification of Mother with I.J.L. and J.L.G.-G., because section 211.183.7, RSMo, does not authorize the juvenile court to relieve the Children's Division of its obligation to make efforts towards reunification simply because Mother was alleged to have tried to harm her children, in that there was no substantial or competent evidence that proved by clear, cogent and convincing evidence that Mother caused or attempted to cause any harm to her children or committed any crime against them as required by section 211.183.7, RSMo.

WD88010
Benjamin Curtis Ramirez, Individually and on Behalf of All Others Similarly Situated, et al., Appellant-Respondent,
v.
Missouri Prosecuting Attorneys' and Circuit Attorneys' Retirement System, et al., Respondent-Appellant.

Appellant-Respondent Benjamin Ramirez and Respondent-Appellant Missouri Prosecuting Attorneys' and Circuit Attorneys' Retirement System ("PACARS") both appeal the judgment of the Circuit Court of Jackson County which granted PACARS motion for judgment on the pleadings. Missouri Revised Statute section 56.807 requires the assessment and collection of a surcharge in all court cases involving violation of criminal laws in Missouri, including traffic infractions. This surcharge is paid to the PACARS Fund. As relevant to the appeal, Ramirez alleged that section 56.807, RSMo, requires the collection of a court cost used to enhance the compensation of prosecuting attorneys in violation of the Missouri Constitution. Ramirez brought suit on behalf of himself and similarly situated Missourians and sought damages sustained in the collection of the court costs. The circuit court entered judgment on the pleadings in favor of PACARS finding that the remedy was a motion to retax costs rather than a class action. Both parties appealed the circuit court's judgment.

Appellant-Respondent's point on appeal:

1. The trial court erred in granting judgment on the pleadings on the basis that Plaintiff Ramirez's remedy is a motion to retax costs, because Defendant PACARS is not entitled to judgment as a matter of law based on the pleadings, in that the trial court previously found that § 56.807, RSMo, violates Article I, section 14 of the Missouri Constitution, the clerk performs a ministerial function when taxing costs under § 514.260, RSMo, a judge likewise performs a ministerial function when ruling on a motion to retax costs under § 514.270, RSMo, and a motion to retax costs under § 514.270, RSMo, is not the proper venue for performance of a judicial function such as determining the constitutional validity of § 56.807, RSMo.

Respondent-Appellant's points on appeal:

1. The trial court erred in granting Ramirez's motion for partial summary judgment and declaring the PACARS surcharge authorized by section 56.807, RSMo, unconstitutional under Article I, section 14 of the Missouri Constitution, because Ramirez failed to establish as a matter of law that the PACARS surcharge violates Article I, section 14 of the Missouri Constitution, in that Ramirez failed to prove that the PACARS surcharge clearly and undoubtedly is not reasonably related to the expense of the administration of justice.

2. The trial court erred in denying PACARS's motion for summary judgment on Ramirez's unjust enrichment claim, because PACARS negated the "unjust" element of that claim, in that Ramirez's unjust enrichment claim rested only on the allegation that PACARS's retention of the surcharge funds authorized by section 56.807, RSMo, was unjust because it was unconstitutional and PACARS showed that the PACARS surcharge does not violate Article I, section 14 of the Missouri Constitution because it is reasonably related to the expense of the administration of justice.

3. The trial court erred in denying PACARS's motion for summary judgment on Ramirez's unjust enrichment claim, because the voluntary payment doctrine bars recovery as a matter of law on the undisputed facts, in that Ramirez knowingly and voluntarily paid the challenged fines and court costs as part of his guilty pleas, raised no protest to the costs, sought no waiver, filed no motion to retax costs, and identified no fraud or duress compelling payment.