

SC100944

IN THE SUPREME COURT OF THE STATE OF MISSOURI

C.S.,

Appellant

v.

**MISSOURI STATE HIGHWAY PATROL CRIMINAL JUSTICE
INFORMATION SERVICES, LAFAYETTE COUNTY SHERIFF'S
DEPARTMENT, LAFAYETTE COUNTY PROSECUTING ATTORNEY,
LAFAYETTE COUNTY JAIL, LAFAYETTE COUNTY CIRCUIT COURT,
and MISSOURI DEPARTMENT OF CORRECTIONS,**

Respondents.

Appeal from the Circuit Court of Lafayette County, 15th Judicial
Circuit The Honorable Dennis A. Rolf
Case No. 23LF-CV00580

REPLY BRIEF OF APPELLANT

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Cases:

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Other Authorities:

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571.030 RSMo	4,5,6

REPLY ARGUMENT

The trial court erred in denying C.S.'s Petition for Expungement, because the trial court misinterpreted or incorrectly applied the law, in that the trial court incorrectly concluded that the charge of Unlawful Use of a Weapon, as charged against Appellant, C.S., is not considered a marijuana offense as contemplated for Expungement by Article XIV, Section 2 of the Missouri Constitution.

The Respondent in its brief overlooks and misinterprets material aspects of law. Thus, a reply is warranted.

The Respondent argues that this Court's "separate and distinct purpose" and "protection against separate and distinct evils" of 571.030 RSMo and 579.015 RSMo analysis prohibits expungement. The rationale is that 571.030 RSMo is a "Firearm" law and not a "Drug" law. The entire purpose of the analysis in *State v. Onyejiaka*, 67 I S.W.3d 796, 800 (Mo. 2023) is to determine, not if it is a firearm law, but rather if the marijuana offense element of unlawful use of a weapon warrants double jeopardy.

Onyejiaka, like C.S., was charged with two crimes: (1) the possession of a controlled substance in violation of section 579.015.1; and (2) the unlawful use of a weapon while in possession of a controlled substance in violation of section

571.030.1(11). A jury found Onyejiaka guilty of both counts. Onyejiaka claimed his convictions violate his right to be free from multiple punishments for the same offense. The double jeopardy clause of the Fifth Amendment guarantees that no person shall "be subject for the same offense to be twice put in jeopardy of life and limb." *State v. Daws*, 311 S.W.3d 806, 808 (Mo. bane 2010) (quoting U.S. Const. amend. V). *State v. Onyejiaka*, 671 S.W.3d 796,800 (Mo. 2023), reh'g denied (Aug. 15, 2023), cert. denied, 144 S. Ct. 687,217 L. Ed. 2d 384 (2024)

However, "a defendant may be convicted in one proceeding of more than one offense based upon the same conduct if the legislature intends lo punish the conduct under more than one statute." *State v. Villa-Perez*, 835 S.W.2d 897,903 (Mo. bane 1992)

The legislature is presumed not to enact meaningless provisions." *Wollard v. City of Kan. City*, 831 S.W.2d 200, 203 (Mo. bane 1992). Based upon the plain language of section 571.030.1(11) and this Court's rules of statutory interpretation, therefore, the only outcome the legislature could have intended by enacting section 571.030.1(11) is to authorize multiple punishments for violations of sections 579.015 and 571.030.1(11).

This conclusion is supported by the separate and distinct purposes of sections 579.015 and 571.030. Section 579.015 prohibits and punishes certain drug-related

conduct. This conclusion is supported by the separate and distinct purposes of sections 579.015 and 571.030. Section 579.015 prohibits and punishes certain drug-related conduct. *Id*

The conduct that is being examined is possessing marijuana. This Court recognizes these prohibitions as drug related conduct but with separate and distinct purposes of section 579.015 and section 571.030.

The separate and distinct analysis of these statutes recognizes the marijuana offense element of 571.030. In fact, if the legislature had intended the individuals to be convicted solely under section 571.030.1(11) when guilty of both offenses, it would have classified a violation of section 571.030.1(11) as a more serious felony than a felony violation of section 579.015. *Id* at 799. The presumption, if the legislature would have made it a more serious offense, then jeopardy would attach and prevent conviction under 579.015.

Article XIV, Section 2 authorizes expungement to any person who is serving a sentence for a marijuana offense which is a misdemeanor, or a class D or E felony involving three pounds or less of marijuana. C.S.'s offense, for which he was convicted in Count II, Unlawful Use of a Weapon, is a class E felony, and involved less than three pounds of marijuana.

CONCLUSION

The citizens of the Great State of Missouri voted to include Article XIV Section 2 in its Constitution. Article XIV Section 2 instructs "to the fullest extent possible, this section shall be interpreted in accordance with the purpose and intent set forth in this section." MO CONST. ART. XIV, SEC. 2.1 The intent is to make Marijuana legal and prevent arrest and penalty. *Id.* Further, Article XIV Section 2 set forth two mechanisms to expunge convictions. h1 this case, C.S. petitioned the Court. C.S. was serving a sentence for marijuana offenses, both of which are either class D or E Felonies involving possession of three pounds or less of marijuana. *Id.* C.S.'s convictions for Possession of Marijuana and Unlawful Use of a Weapon are not offenses involving distribution or delivery to a minor; are not offenses involving violence; and are not offenses of operating a motor vehicle while under the influence of marijuana. *Id.* The only offenses specifically excluded from expungement are contained within that section. Finally, the offense for which C. S. was convicted is no longer an offense in Missouri. C.S.'s petition meets the requirements for expungement as set forth in Article XIV and Section 2. Therefore, the Circuit Court erred in denying C.S.'s request to have his conviction vacated and expunged.

For the reasons presented in Point I and Point I in Appellant's Substitute Brief

and Appellant's Reply Brief C.S. underlying criminal conviction is an expungable offense under Article XIV, Section 2 of the Missouri Constitution, and therefore, Appellant 1s entitled to have that Judgment and Sentence vacated and expunged.

CERTIFICATION OF SERVICE AND OF COMPLIANCE

WITH RULE 84.06(b) AND (c)

The undersigned hereby certifies that on this 20th day of June, 2025, one true and correct copy of the foregoing Brief, was served through the Missouri electronic filing system under Supreme Court Rule 103.08, for service on all counsel of record.

The undersigned further certifies that the foregoing Brief complies with the limitations and requirements contained in Missouri Supreme Court Rule No. 84.06(b), and that relying on the word count of Microsoft Word, the Brief contains 1,197 words.

Respectfully Submitted,

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