

## **Summary of SC88787, *State of Missouri v. Jessica D. Reed***

Appeal from the St. Charles County circuit court, Judge Lucy D. Rauch

**Attorneys:** Reed was represented by Lawrence J. Fleming of Herzog Crebs LLP in St. Louis, (314) 231-6700; and the state was represented by Daniel N. McPherson of the attorney general's office in Jefferson City, (573) 751-3321.

*This summary is not part of the opinion of the Court. It has been prepared by the 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:** A woman convicted of attempted manufacture of methamphetamine appeals the trial court's admission into evidence of a man's out-of-court hearsay statement that he believed she was making methamphetamine. In a unanimous per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri reverses the conviction and remands (sends back) the case for a new trial. The state failed to lay the foundation necessary to admit the statement properly, and because no other direct testimony showed the woman was attempting to manufacture methamphetamine, the trial court's error in admitting the statement was prejudicial.

**Facts:** Jessica Reed was arrested in September 2006 after her sister and the sister's boyfriend, Adam McCauley, visited Reed in Foristell. McCauley and the sister smelled ammonia as they passed a horse trailer parked on the property as they were leaving. Minutes later, McCauley observed two men leaving the horse trailer carrying a backpack and a pitcher containing a solid substance. He then saw Reed run into the woods with a trash bag. Later, McCauley helped police retrieve a trash bag containing equipment commonly used to manufacture methamphetamine. At Reed's July 2007 jury trial for attempted manufacture of a controlled substance (methamphetamine), a police officer testified – over defense counsel's objection – that McCauley told the officer he believed Reed was making methamphetamine in the horse trailer. Reed subsequently was sentenced, as a prior and persistent offender, to six years in prison. She appeals.

### **REVERSED AND REMANDED.**

**Court en banc holds:** The trial court improperly admitted the officer's testimony about McCauley's hearsay statements. Hearsay is any out-of-court statement that is offered into evidence to prove the truth of the matter asserted. Once a statement is challenged as hearsay, the proponent of the statement must demonstrate the statement fits within a recognized exception to the hearsay rule for it to be admitted into evidence. Here, the state failed to lay the proper foundation for admission of the hearsay statement by asking McCauley, generally or specifically, if he previously had stated that Reed was making methamphetamine in the horse trailer. Although the state did ask McCauley whether Reed was living in the trailer, this was too remote a question to lay a proper foundation to

admit McCauley's alleged statement that he believed Reed was making methamphetamine in the trailer. There is reasonable probability that the officer's testimony about McCauley's statement affected the outcome of the trial because no other direct testimony showed that Reed was attempting to manufacture methamphetamine. As such, the trial court's error was prejudicial.