

## **Summary of SC89589, *Randy Belcher v. State of Missouri***

Appeal from the Livingston County circuit court, Judge Stephen K. Griffin  
Opinion issued Dec. 22, 2009

**Attorneys:** Belcher was represented by Phillip R. Gibson of Thomason & Gibson LLC in Independence, (816) 252-5050; and the state was represented by Ms. Jamie P. Rasmussen 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 defendant appeals the circuit court's denial of postconviction DNA testing without making findings of fact or conclusions of law. In a unanimous per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri reverses the circuit court's judgment and remands (sends back) the case for further proceedings because the circuit court failed to issue specific findings of fact and conclusions of law supporting its decision. The fact that the defendant failed to verify his postconviction motion for DNA does not preclude relief, as rules of procedure permit him to amend or correct such a motion.

**Facts:** Randy Belcher pleaded guilty to rape and was sentenced to life in prison. His conviction was affirmed in *State v. Belcher*, 805 S.W.2d 245 (Mo. App. 1991). He subsequently sought postconviction DNA testing pursuant to section 547.035, RSMo Supp. 2008. The circuit court denied his motion without a hearing, finding that "the entire file and records of the case conclusively show that [Belcher] is not entitled to relief" but making no other findings of fact or conclusions of law. Belcher appeals.

### **REVERSED AND REMANDED.**

**Court en banc holds:** (1) Section 547.035.8 requires a court to issue findings of fact and conclusions of law when ruling on a postconviction DNA motion regardless of whether it holds a hearing. Such findings and conclusions must be sufficiently specific to allow meaningful appellate review, and if the circuit court determines that files and records refute a ground for relief, it must identify the portion of the file or record that does so. Here, however, the court merely stated a conclusion and failed to identify any facts or parts of the file or record that supported its conclusion.

(2) If, on remand, the circuit court dismisses Belcher's motion for failure to verify it, he is not precluded from relief. Unlike motions for postconviction relief filed under Rules 29.15 and 24.035 – which are concerned with the fairness of the process used to obtain conviction, which prohibit successive motions and to which strict time restrictions apply – actions for postconviction DNA testing under section 547.035 focus on the concern that

DNA technology could produce exonerating results and specifically contemplate technological developments that will permit later testing as well as subsequent motions when new techniques shed doubt on previous findings. Accordingly, Belcher may file a corrected or amended petition as permitted by Rules 67.01, 67.03 and 67.06, which govern the filing of amended or subsequent pleadings.