

**Summary of SC89605, *Timothy Coffey v. Angela Wasson-Hunt, et al.***  
Appeal from the Jackson County circuit court, Judge Thomas C. Clark.

**Attorneys:** The board of police commissioners was represented on appeal by William E. Quirk and Anthony W. Bonuchi of Kansas City, (816) 421-3355, and Lisa S. Morris and Daniel J. Haus of the general counsel's office of the Kansas City police department, (816) 234-5056. Coffey was represented by John P. O'Connor of Wagstaff & Cartmell in Kansas City, (816) 701-1100, and Michael L. Belancio of Graves, Bartle & Marcus LLC in Kansas City, (816) 285-3053.

*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 board of police commissioners appeals a trial court's judgment reversing its termination of a police officer for use of excessive force in an arrest. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri reverses the trial court's judgment and remands (sends back) the case to the trial court to enter judgment consistent with the board's decision. The board's notice of appeal was timely, its decision was supported by substantial evidence, and the fact that the officer waived his right to a hearing before the board did not change its statutory authority to make the final determination regarding his employment.

**Facts:** In September 2003, Kansas City police officers Timothy Coffey and Aaron Bryant stopped a car that had been traveling at a high rate of speed with a flat front tire. The driver did not exit the vehicle immediately upon Coffey's request, and Coffey pulled the driver from the car. In doing so, the driver's hand brushed against Coffey's gun. Coffey punched the driver several times, Bryant handcuffed the driver, and Coffey punched the driver at least two more times, dropped him onto the pavement, spit on him and directed profanities at him. The arrest was recorded on the patrol vehicle's videotape system, but there was no audio recording. Coffey was charged with violating policies prohibiting the excessive use of force in making an arrest and was given notice of his right to a hearing. He voluntarily waived his right to a hearing before the board of police commissioners and opted to present his case to a hearing officer. After a hearing, the hearing officer recommended that Coffey be reinstated. The board reviewed the transcript of the hearing, the videotape and the hearing officer's recommendation and voted unanimously to terminate Coffey's employment. Coffey sought review in the circuit court, which ordered that Coffey be reinstated. The board appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** (1) The board's notice of appeal was filed timely. The circuit court issued its judgment and sent it to the parties October 5, 2006, but the judgment never was file-stamped and was not entered into the docket until November 22, 2006. Under Rule 43.02(b), the judgment was filed October 5. On November 2, 2006, the board filed a motion to reconsider the judgment that, for the purposes of Rule 81.05(a), was an authorized after-trial motion for a new trial. Because the court never ruled on this motion, it was deemed overruled, and the judgment became final, 90 days later, on January 31, 2007. The board's notice of appeal, which was filed

prematurely on January 25, 2007, became effective the day the judgment became final under Rule 81.05(b).

(2) Substantial evidence supported the board's decision to terminate Coffey's employment. On appeal, this Court reviews the decision of the board, not the circuit court, and, if the evidence permits either of two opposing findings, deference is afforded to the administrative decision. Here, the board's decision was based on the patrol vehicle's videotape of the arrest plus statements from a police sergeant, police captain and former police chief. That reasonable people disagreed as to whether Coffey violated police procedures means only that this Court should defer to the board's findings.

(3) That the board declined to follow the hearing officer's recommendations does not mean Coffey was denied his statutory right to a public hearing before the board. Section 84.600, RSMo 2000, specifically vests the board with authority to make the final determination as to what employment action should be taken, and Coffey's decision to waive his right to a hearing did not confer or eliminate any of the board's power under this statute.