

Summary of SC90522, *Steve Ehlmann, et al. v. Honorable Jeremiah W. (Jay) Nixon, et al.*
Appeal from the Cole County circuit court, Judge Richard G. Callahan
Argued and submitted Sept. 8, 2010; opinion issued Oct. 26, 2010

Attorneys: The St. Charles County officials were represented by Robert E. Hoeynck and Joann Leykam of the St. Charles County counselor's office in St. Charles, (636) 949-7540; the St. Louis County officials were represented by Patricia Redington and Cynthia Hoemann of the St. Louis County counselor's office in Clayton, (314) 615-7042; the state officials were represented by Robert Presson of the attorney general's office in Jefferson City, (573) 751-3321; and the Missouri Sheriff's Association and a deputy sheriff were represented by Heidi Doerhoff Vollet and Dale C. Doerhoff of Cook, Vetter, Doerhoff & Landwehr PC in Jefferson City, (573) 635-7977.

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: County officials appeal a circuit court decision that a bill establishing a new charge for service of certain court documents is not an unconstitutional tax on the counties. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri affirms the circuit court's judgment that transferring the money raised from a county's treasury to the state treasury is not an improper tax on the county. The charge is classified as state money from the time it is collected, it is collected in exchange for a specific service and cannot be used to credit the state's general revenue, and the county treasury simply is a conduit to the state treasury and, ultimately, to the fund.

Facts: In 2008, the legislature passed House Bill No. 2224, which created a deputy sheriff supplementation fund that consists of money collected from a \$10 charge for the service of summons or other court documents that is in addition to the \$20 charge imposed by section 57.280.1, RSMo. The additional \$10 charge is paid into the county treasury, from which the county treasurer pays it to the state treasurer, who is required to deposit the money in the deputy sheriff supplementation fund created under section 57.278, RSMo. The new statute specified that the money could be used only for supplementing the salaries and benefits of county deputy sheriffs. The fund cannot be used to credit state general revenue, and all interest earned on the fund must be credited to the fund. The state department of revenue has deposited into the fund money received from the counties from the new charge imposed by HB 2224; no expenditures have been made from the fund. Certain county officials from St. Charles and St. Louis counties sued certain state officials, seeking a judgment declaring that HB 2224 violated certain provisions of the Missouri Constitution. The circuit court determined the bill was not unconstitutional. To the extent the circuit court's judgment holds that the bill does not violate article X, section 10(a) of the Missouri Constitution by imposing a tax on counties for county purposes, the county officials appeal.

AFFIRMED.

Court en banc holds: The trial court properly held that HB 2224 does not impose an unconstitutional tax on the county. The money collected and distributed pursuant to the bill is not money that belonged to the county at the time it is collected and, therefore, does not constitute a “tax.” First, the bill’s plain language establishes that the \$10 charge is classified as state money from the time it is collected. Second, the \$10 charge is not consistent with the characteristics of a tax because it is collected in exchange for a specific service and cannot be used to credit the state’s general revenue. The bill’s provisions are clear and unambiguous: they establish a new charge for serving certain court documents and specifically and unequivocally directs that the money collected belongs to the fund. The county treasury simply is a conduit to the state treasury and, ultimately, to the fund.