

Summary of SC90988, *Joseph Williams v. Colonel Jerry Lee and Colonel Ron Replogle*
Appeal from the St. Louis County circuit court, Judge Dale Hood
Argued and submitted Dec. 7, 2010; opinion issued Jan. 11, 2011

Attorneys: Williams was represented by Matthew A. Radefeld and Julie L. Brothers of Frank, Juengel & Radefeld PC in Clayton, (314) 725-7777, and the colonels were represented by Deputy State Solicitor Jeremiah J. Morgan of the attorney general's office in Jefferson City, (573) 751-3321, and Robert E. Fox Jr. of the county counselor's office in Clayton, (314) 615-7028.

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 man appeals the dismissal of his suit to declare that a change in a state registration law does not apply to him. In a unanimous per curiam opinion that may not be attributed to any particular judge, the Supreme Court of Missouri dismisses the appeal. The trial court's dismissal was without prejudice, and, as such, it may not be appealed. The man is free, however, to amend his petition in the trial court.

Facts: In 2000, Joseph Williams pleaded guilty in a military tribunal to two specifications of violations of the Uniform Code of Military Justice. At that time, neither Missouri nor federal law required him to register. In 2002, Missouri law was changed to include Williams in a class of offenders required to register under section 589.400.1(5), RSMo. He registered but in 2009 sought a declaratory judgment that he was not required to do so and an expungement of his records. The circuit court sustained the state's motion to dismiss Williams' suit for failure to state a claim but did not specify the dismissal was with prejudice. Williams appeals.

APPEAL DISMISSED.

Court en banc holds: Because the court did not designate otherwise, its dismissal of Williams' action was without prejudice pursuant to Rule 67.03. A dismissal without prejudice generally is not a final judgment and, therefore, may not be appealed unless the dismissal has the practical effect of terminating the litigation. The parties here agree the dismissal had no such effect. They further agree that, under Rule 67.06, Williams should be permitted to amend his petition. Williams may seek leave to do so in the trial court, which shall grant his request freely.