

**Summary of SC92553, *Charles R. Garris v. State of Missouri***

Appeal from the Warren County circuit court, Judge Keith Sutherland

Argued and submitted Nov. 8, 2012; opinion issued Dec. 18, 2012

**Attorneys:** Garris was represented by Louis R. Horwitz of Lou Horwitz LLC in St. Peters, (636) 279-1532; and the state was represented by Shaun J. Mackelprang 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 man convicted as a predatory sex offender appeals the circuit court's denial of post-conviction relief he sought on the basis that the trial court violated his constitutional rights to due process and a jury trial. In a 6-0 decision written by Judge Zel M. Fischer, the Supreme Court of Missouri affirms the circuit court's judgment. Although there is no dispute the man timely raised his allegations of constitutional violations before pleading guilty, his guilty pleas waived any review as to the merits of his challenges, including the constitutional violations he alleged in his pretrial motions. He also has not demonstrated that the circuit court clearly erred in overruling his motion for post-conviction relief without a hearing.

**Facts:** The state charged Charles Garris with three counts of first-degree statutory sodomy. It ultimately charged him as a predatory sex offender pursuant to section 558.018, RSMo, for two of the counts. He filed pretrial motions alleging a procedural due process violation under section 558.021.2, RSMo, if the hearing to determine whether he would be classified as a predatory sexual offender was held before the case proceeded to a jury trial and alleging that section 558.018.5(2) violated the jury trial guarantee of the state and federal constitutions. Prior to the hearing to determine whether Garris was a predatory sex offender, the trial court overruled his motion alleging a due process violation. After the hearing, the court determined Garris met the statutory requirements of a predatory sex offender and later overruled Garris' motion challenging the constitutional validity of section 558.018.5(2). Garris chose not to exercise his right to a jury trial and pleaded guilty to all three counts. A factual basis of his guilt and status as a predatory sex offender was established at the plea hearing. The trial court entered judgment sentencing Garris to three concurrent terms of life imprisonment and set the minimum time to be served before Garris would become eligible for parole at 15 years. Garris subsequently sought post-conviction relief, alleging the trial court denied his constitutional rights to due process and to a jury trial. The circuit court overruled his motion without an evidentiary hearing. Garris appeals.

**AFFIRMED.**

**Court en banc holds:** Although there is no dispute Garris timely raised his allegations of constitutional violations before pleading guilty, his guilty pleas waived any review as to the merits of his challenges, including the constitutional violations he alleged in his pretrial motions. In Missouri, it is well-settled that constitutional violations are waived if not raised at the earliest possible opportunity. It also is the general rule in Missouri that a guilty plea waives all nonjurisdictional defects, including statutory and constitutional guarantees. As such, a guilty plea

not only admits guilt but also consents to a judgment of guilt without a jury trial. Here, Garris pleaded guilty to all the charges against him. He does not challenge whether he entered into those pleas knowingly and voluntarily, and he does not allege that his plea counsel was ineffective. Further, Garris has not included the transcript of the plea hearing in the record on appeal, nor has he otherwise demonstrated that his guilty pleas were conditional on the preservation of his constitutional challenges to sections 558.018.5(2) and 558.021.2. Garris' guilty pleas in open court are presumed to have been made knowingly and voluntarily in accord with Rule 24.02(b). Garris has not demonstrated that the circuit court clearly erred in overruling his motion for post-conviction relief without a hearing.