

Summary of SC93439, *St. Louis County, Missouri, et al. v. State of Missouri, et al.*

Appeal from the Cole County circuit court, Judge Patricia S. Joyce

Argued and submitted November 7, 2013; opinion issued March 25, 2014

Attorneys: The county and officials were represented by County Counselor Patricia Redington and Cynthia L. Hoemann and Michael E. Hughes of the county counselor's office in Clayton, (314) 615-7042; and the state was represented by Robert L. Presson 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 county and several of its officials appeal a circuit court's judgment that they lack standing (legal ability to sue) to seek a declaratory judgment regarding a statutory fund. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri reverses the judgment with respect to one of the four counts, remanding (sending back) the case, and affirms it with respect to the three other counts. For the first three counts in the petition, the interests the plaintiffs allege cannot be vindicated by the relief sought and are not sufficient to confer standing. As to the fourth count, the county superintendent of police has a legal interest in obtaining judicial review of whether he is a county sheriff eligible to file a grant application.

Facts: Section 57.278, RSMo, establishes the deputy sheriff salary supplementation fund and requires county sheriffs to collect a \$10 fee for service of process and to remit the fee to the fund. County sheriffs may file a grant application with the Missouri sheriff methamphetamine relief task force (MoSMART) to obtain a grant from the fund to supplement salaries and benefits of county deputy sheriffs. The St. Louis County superintendent of police submitted an application seeking a grant from the fund. MoSMART denied the application because it was not submitted by the St. Louis County sheriff as required by the fund qualifications. A group of plaintiffs (the county, its superintendent of police, its sheriff, a deputy police officer, a deputy sheriff and a county transportation officer) filed a four-count petition seeking judicial declaration that the fund is unconstitutional and administered improperly. The circuit court dismissed the petition, finding the plaintiffs lacked standing (legal ability to sue). The plaintiffs appeal.

AFFIRMED IN PART AND REVERSED IN PART.

Court en banc holds: The circuit court erred only in dismissing the fourth count. To have standing in a declaratory judgment case, plaintiffs must demonstrate they have a legally protectable interest at stake. To do so, they must show not only that they are affected directly and adversely by the action in question or the plaintiffs' interest is conferred by statute but also that the remedy they seek will alleviate their alleged injury. For the first three counts in the petition, the interests the plaintiffs allege cannot be vindicated by the relief sought and are not sufficient to confer standing. As to the first, although the plaintiffs are interested in obtaining grant money, the fund is discretionary, and the plaintiffs have no legally protectable interest in receiving discretionary grant money. As to the second, the plaintiffs allege no ground challenging the validity of the \$10 service fee they collected and remitted as part of the filing fees for initiating

this lawsuit. Even if they prevailed on their claim that the statute authorizing the fund is unconstitutional, the fee is mandated by a different statute and still would be collected and remitted to the fund. As to the third, even assuming arguendo that the grant criteria are rules that were not promulgated properly, a declaration that the criteria should be promulgated as rules does not remedy either the denial of the grant application or the remittance of the \$10 fee. As to the fourth count, however, the superintendent has a legal interest in obtaining judicial review of whether he is a county sheriff eligible to file a grant application. If the trial court determines that he is, then the trial court could remand the matter back to MoSMART for further consideration.