

Summary of SC94716, *State ex rel Mark A. Richardson v. The Honorable Daniel R. Green*
Original proceeding in prohibition originating in the Cole County circuit court
Argued and submitted April 22, 2015; opinion issued July 21, 2015

Attorneys: Richardson, the Cole County prosecutor of Jefferson City, (573) 634-9180, represented himself. Larry Welch was represented by James D. Barding, an attorney in Jefferson City, (573) 619-3231.

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: The prosecuting attorney in the underlying action seeks a writ of prohibition preventing the trial court from applying a sentence-reduction statute to an individual sentenced for vehicular manslaughter while driving in an intoxicated condition. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri makes permanent its preliminary writ of prohibition. The trial court lacked authority to reduce the individual's sentence because Missouri law gives a court authority to reduce sentences only of persons who were convicted of crimes that did not involve violence. One element of the individual's crime is that he caused the death of another person through the operation of a motor vehicle while intoxicated. His crime, therefore, does not fall within the scope of the sentence-reduction statute.

Facts: In 2007, Larry Welch, who was driving while his blood alcohol content was in excess of what the law presumes to be impaired, struck another vehicle, killing two of its occupants. The trial court sentenced Welch to two concurrent 15-year terms of imprisonment for his convictions for vehicular manslaughter while driving in an intoxicated condition. Welch subsequently moved for a reduction of his sentences under a sentence-reduction statute. For a person convicted of an offense involving alcohol to receive a sentence reduction, the statute requires that the person's offense did not "involve violence." The trial court concluded that the sentence-reduction statute applied and reduced Welch's sentence. The prosecuting attorney seeks this Court's writ of prohibition.

WRIT OF PROHIBITION MADE PERMANENT.

Court en banc holds: The sentence-reduction statute does not authorize reduction of Welch's sentences for vehicular manslaughter. Section 558.046, RSMo, permits a court to reduce an offender's sentence or shorten the offender's term of probation or parole if the offender completes a rehabilitation program successfully, the offender meets certain other requirements and the offender's crime did not involve violence. The statutory requirement that the crime not be one that "involves violence" is broad in scope. It requires simply that the offense of which the individual was convicted *involve* violence, not that the individual *intended* violence. The statutory definition of the crime of which Welch was convicted includes, as an element of the offense, the killing of an individual with a motor vehicle while driving while intoxicated; in this case, Welch's criminal conduct killed two people. This is conduct that involves violence.