

Summary of SC94942, *State ex rel. Heart of America Council, Boy Scouts of America and Boy Scouts of America v. The Honorable Charles H. McKenzie*

Proceeding in prohibition originating in Jackson County, Judge Charles H. McKenzie
Argued and submitted December 10, 2015; opinion issued March 15, 2016

Attorneys: The Boy Scouts were represented by Gerard T. Noce and Justin L. Assouad of HeplerBroom LLC in St. Louis, (314) 241-6160; and Doe was represented by Randall L. Rhodes of Douthit Frets Rouse Gentile & Rhodes LLC in Leawood, Kansas, (913) 387-1600.

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: Two Boy Scouts organizations seek a writ of prohibition preventing the circuit court from taking any action other than to grant their motions for summary judgment (judgment on the court filings, without a trial) on a man’s claims for statutory childhood sexual abuse, battery and negligence. In a unanimous opinion written by Judge Laura Denvir Stith, the Supreme Court of Missouri now makes its preliminary writ permanent. The statutes of limitations for the battery and negligence claims against the Boy Scouts have expired, and the statute governing the man’s remaining claim does not provide a cause of action for childhood sexual abuse against non-perpetrators.

Facts: John Doe alleged that his Boy Scout troop scoutmaster sexually abused him while he was a minor. A few weeks before his 31st birthday, Doe filed the underlying lawsuit against his scoutmaster and against the Heart of America Council of the Boy Scouts of America and the national Boy Scouts of America (collectively, the “Boy Scouts”). Doe alleged that the Boy Scouts were vicariously and directly liable for childhood sexual abuse under section 537.046, RSMo; vicariously liable for the alleged battery committed by the scoutmaster; and directly liable for negligence. The circuit court overruled the Boy Scouts’ motions for summary judgment on all claims. The Boy Scouts seek this Court’s relief.

PRELIMINARY WRIT MADE PERMANENT.

Court en banc holds: The Boy Scouts are entitled to summary judgment on all three claims. First, Doe’s battery and negligence claims are time-barred. The statute of limitations for battery is two years and for negligence is five years, but because the tortious conduct occurred when Doe was a minor, the statutes were tolled until he reached age 21. Doe had two and five years from the time he turned 21 to file his battery and negligence claims respectively, but he did not file the underlying lawsuit until almost 10 years after he turned age 21. The longer statute of limitations in section 537.046 does not govern the common law battery and negligence claims because they are not enumerated acts that constitute childhood sexual abuse and section 537.046.2 states that the special statute of limitations applies only to “an action brought pursuant to this section.” Second, John Doe failed to state a claim against the Boy Scouts under section 537.046 because the statute creates a cause of action against only the perpetrators of the sexual abuse only. By its plain terms, section 537.046 requires the defendant to have committed the criminal acts that constitute childhood sexual abuse and does not contain any basis to impose liability for acts committed by others.