

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**KATE GOERLITZ,  
APPELLANT**

**vs.**

**CITY OF MARYVILLE,  
RESPONDENT**

---

DOCKET NUMBER WD70620

DATE: DECEMBER 8, 2009

---

Appeal from:

The Circuit Court of Gentry County, Missouri  
The Honorable James B. Funk, Judge

---

Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Victor C. Howard and James E. Welsh, JJ.

---

Attorneys:

Jerold L. Drake, for Appellant

Nikki Cannezzaro, for Respondent

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**KATE GOERLITZ, APPELLANT**

**v.**

**CITY OF MARYVILLE, RESPONDENT**

WD70620

Gentry County, Missouri

Before Division Two Judges: Joseph M. Ellis, P.J., Victor C. Howard and James E. Welsh, JJ.

Kate Goerlitz appeals from the Circuit Court of Gentry County's entry of summary judgment in favor of the City of Maryville in Ms. Goerlitz's action for damages and injunctive relief stemming from the City's operation of a firing range near her home. Goerlitz included averments about noise emissions, nuisance, and danger from bullets invading the airspace of her property. The trial court determined that Goerlitz was precluded from recovering against the City under the provisions of § 537.294.

**AFFIRMED.**

**Division Two holds:**

- (1) Goerlitz claim that bullets from the gun range ricocheted and flew over her property sounds in trespass as she is claiming that objects from the City's property are coming onto her property without authorization. Section 537.294 divests the courts of this state of any authority to enter an injunction or award damages against the owner of a firearm range based upon allegations of trespass.
- (2) Since it is uncontroverted that the City's insurance policy contained language preserving sovereign immunity, Goerlitz failed to establish a waiver of sovereign immunity on that basis.

**Opinion by: Joseph M. Ellis, Judge**

Date: December 8, 2009

**This summary is *UNOFFICIAL* and should not be quoted or cited.**