

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JEROME PHILLIPS

RESPONDENT,

v.

MISSOURI DEPARTMENT OF CORRECTIONS

APPELLANT.

DOCKET NUMBER WD71587

DATE: August 31, 2010

Appeal From:

Cole County Circuit Court
The Honorable Richard G. Callahan, Judge

Appellate Judges:

Division One: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin,
JudgeS

Attorneys:

Jerome Phillips, Appellant Pro Se.

Stephen D. Hawke, Jefferson City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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No. WD71587

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Before Division One Judges: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin, Judges

The Missouri Department of Corrections appeals from a judgment granting a petition for declaratory judgment filed by Jerome Phillips. Phillips's petition contended that for purposes of calculating his mandatory minimum prison term under section 558.019, his life sentence should be calculated as thirty years, not fifty years. The trial court agreed and ordered the Missouri Department of Corrections to so calculate Phillips's mandatory minimum prison term.

REVERSED.

Division One holds:

(1) Section 558.019 RSMo 1986 controlled the calculation of Phillips's life sentence as this version of the statute was in effect at the time Phillips was convicted and sentenced. Under this version of the statute, Phillips's life sentence was calculated as fifty years.

(2) Section 558.019 was amended in 1994 to revise the calculation of a life sentence to thirty years. That version of the statute expressly provided that the section would only apply to offenses occurring on or after August 28, 1994. However, section 558.019 RSMo 1994 was repealed, and a new version of section 558.019 was enacted in 2003. The version of section 558.019 enacted in 2003 also calculated a life sentence as thirty years and expressly provided that the section would only apply to offenses occurring on or after August 28, 2003.

(3) The legislature has clearly and unambiguously directed that section 558.019 RSMo Cum.Supp. 2003 should not be applied retrospectively. As Phillips's offenses giving rise to his life sentence occurred before August 28, 2003, Phillips is not entitled to have his life sentence recalculated as thirty years, but instead his life sentence remains calculated at fifty years.

(4) As section 558.019 expresses unambiguous guidance that the legislature did not intend the section to be retrospectively applied, we need not consider whether section 1.160 RSMo 2000 would also operate to prohibit retrospective application of the statute.

Opinion by Cynthia L. Martin, Judge

August 31, 2010

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