

SUPREME COURT OF MISSOURI

State of Missouri on the Information of Ronald S. Reed, Jr., Special
Prosecuting Attorney of Clay County, Missouri v. Michael E.
Reardon, Prosecuting Attorney of Clay County, Missouri

41 S.W.3d 470 (Mo. banc 2001) · No. SC 82688 · Decided April 10, 2001

SUMMARY

The Supreme Court of Missouri dismissed as moot an appeal from the denial of a quo warranto petition seeking to remove the Clay County prosecuting attorney for alleged willful violations and neglect of official duties. The court held that the respondent's term had expired, making ouster under section 106.220 impossible and leaving no practical controversy. The court distinguished precedent involving additional relief such as fines and costs.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Price, C.J.; Limbaugh, J.; White, J.; Holstein, J.; Benton, J.; Sheffield, Sp. J.
JURISDICTION	Missouri
DECIDED	April 10, 2001
DOCKET	SC 82688
DISPOSITION	dismissed
PROCEDURAL POSTURE	The special prosecuting attorney appealed the circuit court's judgment denying his petition in quo warranto seeking Reardon's removal from the office of Clay County prosecuting attorney under section 106.220.
STANDARD OF REVIEW	Mootness and justiciability were reviewed as threshold matters of appellate jurisdiction; the court could dismiss for mootness sua sponte and could consider matters outside the record in determining mootness.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Missouri, decided en banc
PARTIES	State of Missouri on the Information of Ronald S. Reed, Jr., Special Prosecuting Attorney of Clay County, Missouri v. Michael E. Reardon, Prosecuting Attorney of Clay County, Missouri

TOPICS

mootness

appellate jurisdiction

appellate procedure

remedies

statutory interpretation

PRACTICE AREAS

appellate procedure

civil procedure

municipal law

remedies

statutory interpretation

QUESTIONS PRESENTED

1. Whether the appeal was moot because Reardon's term as Clay County prosecuting attorney expired while the appeal was pending.
2. Whether section 106.220 authorized any relief beyond forfeiture and removal from the public office.
3. Whether the court should reach the merits of the alleged unauthorized expenditures and failure to require fee remittance.

HOLDINGS

1. The appeal was moot because Reardon no longer occupied the office from which the petition sought to oust him, making the only relief authorized by section 106.220 impossible to grant.
2. Section 106.220 authorizes forfeiture and removal from the covered public office, but does not authorize the additional fines, levies, forfeitures, or other relief requested in the petition.
3. The appeal was not preserved as a live controversy by the special prosecutor's request for costs because assessment of costs was also moot once the underlying claim became moot.

KEY QUOTATIONS

"The appeal is dismissed." (471)

"A threshold question in any appellate review of a controversy is the mootness of the controversy." (473)

"When an event occurs that makes a court's decision unnecessary or makes granting effectual relief by the court impossible, the case is moot and generally should be dismissed." (473)

"Because he can no longer forfeit or be ousted from the office of prosecuting attorney of Clay County, which is the only relief authorized by sec. 106.220, any decision by this Court as to the claims raised by the appellant on appeal in this regard would not have any practical effect upon any existing controversy." (474)

FACTUAL BACKGROUND

Reardon served as Clay County prosecuting attorney from January 1, 1987, through December 31, 1998. During his tenure, he used money from a statutory bad-check fund and a prosecuting-attorney contingent fund for expenditures including food, office parties, flowers, professional dues, an oil painting, and bar association dinners. Two assistant prosecuting attorneys also received compensation for special prosecutorial work in other counties without remitting those fees to the Clay County general revenue fund. The special prosecutor sought Reardon's ouster under section 106.220, but Reardon's term expired before appellate resolution.

PROCEDURAL HISTORY

The petition alleged that Reardon willfully violated or neglected his official duties by authorizing allegedly unauthorized expenditures from county prosecutorial funds and by failing to require assistant prosecuting attorneys to remit fees earned in other counties to the Clay County general revenue fund. After a December 1998 hearing, the circuit court denied the petition and found no willful statutory violation or constitutional duty of the alleged kind. The Missouri Court of Appeals, Western District, issued an opinion, after which the case was transferred to the Supreme Court of Missouri under Rule 83.04 and article V, section 10 of the Missouri Constitution. By the time of Supreme Court review, Reardon's term had expired.

DISPOSITION

dismissed

CASES CITED

- *Armstrong v. Elmore*, 990 S.W.2d 62, 64 (Mo. App. 1999)
- *Shelton v. Farr*, 996 S.W.2d 541, 543 (Mo. App. 1999)
- *Bank of Washington v. McAuliffe*, 676 S.W.2d 483, 487 (Mo. banc 1984)
- *State ex rel. Wilson v. Murray*, 955 S.W.2d 811, 812-13 (Mo. App. 1997)
- *In re C.A.D.*, 995 S.W.2d 21, 28 (Mo. App. 1999)
- *Gilroy-Sims & Associates v. City of St. Louis*, 697 S.W.2d 567, 569 (Mo. App. 1985)
- *Bratton v. Mitchell*, 979 S.W.2d 232, 236 (Mo. App. 1998)
- *State ex Information McKittrick v. Wymore*, 345 Mo. 169, 132 S.W.2d 979 (Mo. banc 1939)