

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

ST. LOUIS COUNTY, MISSOURI, )  
 )  
 and )  
 )  
 CHARLIE A. DOOLEY, individually and )  
 in his capacity as County Executive )  
 of St. Louis County, Missouri, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 STATE OF MISSOURI, )  
 )  
 Defendant. )

Cause No. 04CV32913

Division No. I

JUDGMENT AND ORDER

Plaintiffs St. Louis County, Charlie A. Dooley in his capacity as County Executive, Charlie A. Dooley as an individual taxpayer of the State of Missouri and of St. Louis County, and Defendant State of Missouri, each submit their cross motions for summary judgment.

The Court, having considered the various memoranda of law filed by the parties, the record, and the argument of counsel, makes the following findings of fact:

1. St. Louis County is a constitutional charter county.
2. Charlie Dooley is County Executive of St. Louis County and a resident and taxpayer of St. Louis County and the State of Missouri.
3. If an authorized law enforcement official for St. Louis County undertook the processing of applications for endorsements to carry concealed weapons pursuant to Sections 571.101 et seq, RSMo, that official would incur costs. Such costs would include costs that are not for the purchase of equipment or the provision of training,

such as the costs of fingerprint checks performed by state or federal law enforcement agencies. The costs that are not for training and equipment would be more than *de minimis*.

4. The State of Missouri has neither funded nor made an appropriation to fund those costs that law enforcement officials would incur for undertaking the processing of applications for endorsements to carry concealed weapons pursuant to Section 571.101 et seq., apart from authorizing the fee described in Sections 50.535 and 571.101.10-.11.
5. The State of Missouri has not taken any action to compel an authorized law enforcement official for St. Louis County to process applications for endorsements to carry concealed weapons pursuant to Sections 571.101 et seq.

On the basis of the findings of facts, the Court reaches the following conclusions of law:

1. Only in first class counties may a law enforcement official authorized to process concealed carry endorsement applications designate a police chief of a city, town or municipality within such county to process the applications. Under the Missouri Constitution, Article VI, Section 18(a), counties that originally were first class counties but which have adopted a charter are a separate class of counties outside of the classification system established under section 8 of Article VI; therefore, the authorized law enforcement official in St. Louis County is not statutorily authorized to make such designation.

2. Because the costs of processing concealed carry applications would involve costs not for purchase of equipment or the provision of training that would be more than *de minimis*, and because the State of Missouri has neither funded nor made an appropriation to fund those costs that law enforcement officials would incur for undertaking the processing of applications for

endorsements to carry concealed weapons pursuant to Section 571.101 et seq., apart from authorizing the fee described in Sections 50.535 and 571.101.10-.11, the State of Missouri has, with the enactment of the Concealed Carry Law, imposed an unfunded mandate upon St. Louis County in violation of the Hancock Amendment, Mo. Const. Art. X., Sections 16 and 21.

3. That the State of Missouri has not taken any action to compel an authorized official for St. Louis County to process concealed carry endorsement applications does not mean that there is no ripe issue between the County and its taxpayer Charlie A. Dooley. The obligation to comply with the Concealed Carry Law contested by the Plaintiffs arose upon its effective date, and thus there is an issue ripe for judicial determination between the parties. However, Charlie A. Dooley in his capacity as County Executive lacks standing to pursue the claim.

In accordance with its findings of fact and conclusions of law, the Court ORDERS AND ADJUDGES THAT:

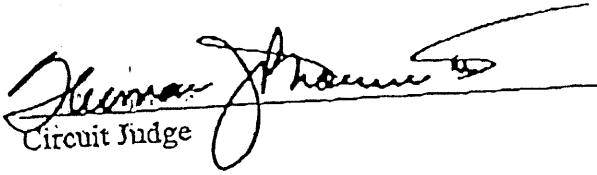
1. The Cross Motion for Summary Judgment of Plaintiffs is sustained as it pertains to the claims of St. Louis County and Charlie A. Dooley as an individual taxpayer of the State of Missouri and St. Louis County. It is denied as it pertains to the claims of Plaintiff Charlie A. Dooley in his capacity as County Executive.

2. The Cross Motion for Summary Judgment of Defendant State of Missouri, solely as it pertains to the standing to sue of Charlie A. Dooley in his capacity as County Executive of St. Louis County, is sustained, and denied as to the remainder.

IT IS FURTHER ORDERED, ADJUDGED AND DECLARED that those portions of the Concealed Carry Law, Sections 571.101 RSMO, et seq. (Supp. 2003) that require the expenditure of County funds that are not reimbursable from the Sheriff's Revolving Fund constitute an unfunded mandate in violation of the Hancock Amendment, Article X, Sections 16

and 21 of the Missouri Constitution as such portions pertain to St. Louis County, and such portions shall not be enforceable against St. Louis County, nor shall St. Louis County or its authorized law enforcement official be required to accept applications for concealed carry endorsements, or to issue them.

SO ORDERED:

  
Circuit Judge

10-8-04