



Charlie A. Dooley  
County Executive

Saint Louis  
**COUNTY**  
**COUNTY COUNSELOR**

Patricia Redington  
County Counselor

MEMORANDUM

Dated: March 22, 2004

To: Cole County Circuit Court  
Attn: Carrie  
FAX 573-635-0796

From: Mike Shuman *MS*  
Associate County Counselor

Re: St. Louis County v. State of Missouri.

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Accompanying this fax memo is an unsigned copy of a petition I've mailed for filing in Cole County Circuit Court. As you can see, I've asked for service upon both the Governor and on the Attorney General. The envelop I sent Thursday contained a check to the Clerk for \$105 for filing, and a check to the Sheriff for \$40 for service on the two persons.

After mailing the envelope, Paul Wilson of the Attorney General's Office called and asked if I'd withhold service on the Governor, that his office would accept service. I'd like to accommodate that request. So, I am asking for the Clerk's Office to accept the petition for filing, and send me a stamped copy, but for the Clerk's Office not to prepare a summons or send anything to the Sheriff for service. When I get back the stamped copy, with case number on it, I'll send it to Paul Wilson, and I expect he'll file whatever responsive pleadings he thinks are appropriate.

Thank you very much for you help. Please call if you have any luck!

**FILED**

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

MAR 22 2004

BRENDA A. UMSTATTD  
CLERK CIRCUIT COURT  
COLE COUNTY, 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. 04CY323913

Division No. I

Serve: State of Missouri  
Hon. Robert Holden, Governor  
State Capitol, Room 218  
Jefferson City, MO 65101

Attorney General Jay Nixon  
207 West High Street  
Jefferson City, Missouri 65102

**PETITION FOR DECLARATORY JUDGMENT**

COMES NOW Plaintiff St. Louis County, Missouri ("County"), and states that:

1. County is a charter county and a political subdivision of the State of Missouri, with its county seat in Clayton, Missouri.
2. Charlie A. Dooley is a taxpayer and resident within, and County Executive of, St. Louis County, Missouri, and has standing to bring this action by virtue of Art. X, Section 23 of the Missouri Constitution.
3. Defendant State of Missouri has its capital located in Cole County, Missouri.

4. This Court has subject matter jurisdiction with regard to the issues raised in this lawsuit, namely the constitutionality of Section 571.101 R.S.Mo. (2003 Cum. Supp.), and venue is proper in this Court pursuant to Section 508.010(5) R.S.Mo. (2000).<sup>1</sup>

5. On September 11, 2003, the Missouri General Assembly overrode a gubernatorial veto to pass House Bills 349, 120, 136 and 328, which bills repealed and re-enacted Section 571.030 and enacted three new sections: Sections 50.535, 571.030 and 571.094.<sup>2</sup>

6. Section 571.101 provides that eligible persons may apply to the sheriff for an endorsement to carry concealed weapons under certain circumstances, and that the sheriff upon receiving such application shall fingerprint the applicant, request a criminal background check, make such inquiries as are necessary into the accuracy of the statements made in the application, and issue a certificate of qualification for a concealed carry endorsement if appropriate or notify the applicant in writing of the grounds for denial and of the right to submit additional documentation within thirty days.

7. By operation of the County Charter, Section 4.275, the superintendent of police and the department of police “shall have all the powers and perform all the duties of the sheriff . . . with respect to preservation of order, prevention of crimes and misdemeanors, apprehension and arrest, conserving the peace and other police and law enforcement functions except those powers and duties vested in other departments or officers of the county by this charter.” Under such authority, the Superintendent of the St. Louis County Police Department is the County official charged with responsibility for administering the provisions of the conceal carry law.

8. Section 571.101.11 authorizes the sheriff to charge a fee of up to \$100 to process an

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<sup>1</sup> All statutory references hereafter are to R.S.Mo. (2000 as amended).

<sup>2</sup> Section 571.094 has been codified as Sections 571.101 - 571.121 R.S.Mo., and the codified section numbers will be used hereafter.

application for endorsement, but Section 50.535 provides that such fees shall be paid to the credit of the sheriff's revolving fund and "shall only be used by law enforcement agencies for the purchase of equipment and to provide training."

9. From its General Revenue Fund, and not from the Sheriff's Revolving Fund, the County will incur a cost of approximately \$73.09 for each application submitted in connection with the conceal carry law. Based on the 2000 decennial census, 699,369 persons residing in St. Louis County are at least 23 years of age and eligible, unless otherwise barred by law, to make application to the St. Louis County Police Department for a conceal carry endorsement. Based on national figures provided by the National Rifle Association, one percent (1%) of eligible persons apply for conceal carry permits. If only one percent (1%) of the eligible residents of the County make application for conceal carry endorsements, the County will bear a cost of approximately \$511,168.80 for processing the applications in the first year of accepting them.

10. Art. X, Section 16 of the Missouri Constitution provides that "The state is prohibited from requiring any new or expanded activities by counties and other political subdivisions without full state financing . . . ."

11. Art. X, Section 21 of the Missouri Constitution provides that "A new activity or service . . . shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs."

12. In enacting Section 571.101, Defendant State of Missouri has required the County to provide a new activity or service but has not provided full state financing or appropriated and disbursed money to County for County's increased costs.

## COUNT 1

13. County and Charlie A. Dooley re-allege the allegations set out in Paragraphs 1 through 12.

14. The enactment of Section 571.101 without the appropriation and disbursement of money to fund the new activities required therein, violates Art. X, Sections 16 and 21, of the Missouri Constitution.

15. Plaintiffs each have legally protectable interests in the matters raised in Count 1 in that the unconstitutional acts of Defendant will require County to provide activities, services and expenditures of general revenue funds not justified according to law and an expenditure of taxpayer funds not justified according to law. Further, the allegations of Paragraphs 1 through 14 present questions that are ripe for judicial guidance. By reason of the foregoing, a declaratory judgment is both necessary and proper in order to set forth and determine the rights and liabilities of the parties and the validity of said statutes.

WHEREFORE, Plaintiffs St. Louis County and Charlie A. Dooley request a declaration that Section 571.101 R.S.Mo. (2003 Supp.) be declared unconstitutional and void, and request such other relief as is available and deemed just and proper by the Court.

## COUNT 2

16. County and Charlie A. Dooley re-allege the allegations set out in Paragraphs 1 through 12.

17. The enactment of Section 571.101 which authorizes a fee that is insufficient, in light of the requirements of Section 50.535, to fund the new activities required therein, violates Art. X, Sections 16 and 21, of the Missouri Constitution.

18. Plaintiffs each have legally protectable interests in the matters raised in Count 2 in

that the unconstitutional acts of Defendant will require activities, services and expenditures of general revenue funds not justified according to law and an expenditure of taxpayer funds not justified according to law. Further, the allegations of Paragraphs 1 through 12, 16 and 17 present questions that are ripe for judicial guidance. By reason of the foregoing, a declaratory judgment is both necessary and proper in order to set forth and determine the rights and liabilities of the parties and the validity of said statutes.

WHEREFORE, Plaintiffs St. Louis County and Charlie A. Dooley request a declaration that Section 571.101 R.S.Mo. (2003 Supp.) be declared unconstitutional and void and unenforceable within St. Louis County, Missouri, and request such other relief as is available and deemed just and proper by the Court.

PATRICIA REDINGTON  
COUNTY COUNSELOR

By: 

Michael A. Shuman #32418  
Associate County Counselor  
Lawrence K. Roos Bldg.  
41 S. Central Avenue  
Clayton, Missouri 63105  
314-615-7042  
Fax 314-615-3732  
Attorneys for Plaintiffs