

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

STATE OF MISSOURI, EX INF.	)	
ANDREW BAILEY,	)	
ATTORNEY GENERAL,	)	
	)	
Relator,	)	
	)	Case No. 2522-CC01380
v.	)	
	)	
ALFRED MONTGOMERY,	)	
	)	
Respondent.)	)	

RESPONDENT'S MEMORANDUM IN SUPPORT
EXPLAINING WHY SUMMARY JUDGMENT SHOULD BE GRANTED

Sheriff Alfred Montgomery, by and through his counsel of record, pursuant to Rule 74.04(c)(1), provides the following memorandum in support of why summary judgment should be granted in his favor on the remaining counts in this writ.

Introduction

Sheriff Alfred Montgomery won two free and fair elections: *first*, he defeated incumbent Sheriff Vernon Betts in the Democratic primary election, and *second*, he won the general election in a landslide. But through this legal action, the Missouri Attorney General is asking this Court to overturn the will of the voters and to remove the democratically elected Sheriff from office.

The 90-page petition should not supersede the more than 100,000 votes that put Sheriff Montgomery in office. As with any elected officeholder, voters have the right to be satisfied or dissatisfied—but their remedy is at the polling place at the next free and fair election, not in a court proceeding that amounts to no more than a political stunt.

Pursuant to Missouri law, the Sheriff of the City of St. Louis has the authority to “enforce the general criminal laws of the state of Missouri” when doing so is “incidental to the duties customarily performed” by that officeholder. RSMo. §57.450. The office itself is “considered a law enforcement agency with the sheriff and sworn deputies considered law enforcement officers.” *Id.* The full scope and nature of the Sheriff of the City of St. Louis's authority, at most, remains an open question of law that should not be resolved by way of a petition seeking to remove the elected officeholder. In fact, that question of law is now pending before another division of this Circuit. See Case No. 2522-CC09342, *Alfred Montgomery, Sheriff, City of St. Louis, in his official capacity v. City of St. Louis*.

A writ of quo warranto is “extraordinary” as a matter of law—and for good reason. What is “extraordinary” about the petition filed in this case is that it is based on unsettled questions of law and factual allegations that are objectively false or, at a minimum, lack important context. For example, Respondent has already laid bare one false allegation, Count I, where the Relator accused Respondent of violating the nepotism clause of the Missouri Constitution. Despite advising Relator the allegations of nepotism were false immediately after the writ was filed and even providing proof in the form of birth certificates, Relator did not dismiss the count until after Respondent filed a motion to dismiss supported by a nine-year old court judgment and paternity test conclusively proving the Attorney General’s allegations were both false and already settled as a matter of law in the State of Missouri. But instead of actually focusing on the facts and settled case law on this precise issue, the Attorney General

relied on hearsay information from an employee in the office rather than the court records related to Mr. Taylor before making such an explosive allegation in a court of law.

As the statement of uncontroverted material facts filed with this memorandum makes clear, the remaining five counts should meet the same fate. Judgment on all five remaining counts should be entered in favor of Respondent because there remains no genuine issue of fact on which Relator can prevail on any count. As such, Respondent respectfully requests that this Court enter summary judgment in favor of Respondent on all remaining counts of Relator's Petition for a Writ of Quo Warranto.

I. Regarding Count II, Tammy Ross was Lawfully Detained and Arrested

A. The Allegations in the Petition

The Petition tells a story of fiction that is plainly rebutted by the evidence and testimony adduced to date.

On the morning of February 14, 2025, deputies Ronald Jones and Norbert Thompson went to the St. Louis City Justice Center (the "Jail") to serve a time sensitive order of protection signed by a judge on an inmate. *Petition* ¶ 82. Without any support whatsoever, the Attorney General characterizes this as a "pretext" to "manufacture a dispute." *Id.* at ¶ 83. The detainee was served at approximately 10:10 a.m. *Id.* at ¶ 85. The deputies had to wait more than one hour to accomplish the simple task of serving process to this one inmate behind bars at the Jail.

At approximately noon, Sheriff Montgomery and two deputies—Wayne

Honer and Bryan Robins—went to the Jail. *Id.* at ¶ 86. 20 minutes later, Sheriff Montgomery made contact with Tammy Ross, whom the Attorney General characterizes as “the Deputy Commissioner of the St. Louis City Justice Center” at the time. *Id.* at ¶ 87.

During what the Attorney General calls a “confrontation,” Sheriff Montgomery moved his body to block Ross from moving further inside the Jail towards the corrections side of the building. *Id.* at ¶ 91. Sheriff Montgomery told Honer and Robins to “handcuff her.” *Id.* at 96.

Sheriff Montgomery directed Ross to move to the desk of the Sheriff’s holding area and, while walking, put his hand on her back. *Id.* at ¶¶ 99 and 100. Ross was instructed to place her hands behind her back and Sheriff Montgomery ordered her “arrest.” *Id.* at ¶¶ 102 and 103. Robins handcuffed Ross. *Id.* at ¶ 104. At that time, Robins was “not a licensed Missouri peace officer” and Sheriff Montgomery knew that. *Id.* at ¶¶ 107 and 108. Sheriff Montgomery is also not a licensed Missouri peace officer. *Id.* at ¶ 110.

Sheriff Montgomery, the deputies, and Ross walked from the Jail to the bridge to the courthouse. *Id.* at ¶ 112. Ross was taken to Major Lammert’s office in the Sheriff’s Office. *Id.* at ¶ 126. There, Sheriff Montgomery contacted Public Safety Director Charles Coyle to discuss the “arrest” of Ross. *Id.* at ¶ 127. After Blake Lawrence whispered something in Sheriff Montgomery’s ear, Ross was allowed to leave. *Id.* at ¶ 134.

The Attorney General claims Sheriff Montgomery subsequently lied that

the police gave him permission to interview a detainee and that Coyle gave him permission to interview a detainee.

The uncontroverted material facts paint a very different picture.

B. Uncontroverted Material Facts Related to Count II¹

The St. Louis City Sheriff's Office has historically and customarily performed the following two functions relevant to this Count in the Petition: (1) serving process of legal paperwork and (2) conducting internal affairs investigations.

The St. Louis City Sheriff's Office has historically and customarily had an Internal Affairs division that investigated misconduct of deputies or anyone assigned to the Sheriff's Office. See Respondent's Statement of Uncontroverted Material Facts ("SUMF") at 1. On February 13, 2025, Respondent launched an Internal Affairs investigation regarding an allegation that a St. Louis City Sheriff's deputy engaged in sexual misconduct with a detainee in the City of St. Louis' Criminal Justice Center ("CJC"). SUMF at 2. Captain Mopkins agreed it was an appropriate internal affairs investigation. *Id.* On February 13, 2025, Captain Linda Mopkins, head of Internal Affairs for the City of St. Louis Sheriff's Office, first asked Tammy Ross, acting Jail Commissioner, for permission to interview the victim as a part of the Sheriff's Office Internal Affairs investigation. *Id.* at 3.

In the early morning of February 14, 2025, two deputies were initially denied access and made to wait approximately one hour and forty-five minutes to serve a time-

¹ Section I of this memorandum is intended solely to address summary judgment as it relates to Count II of the pending Petition. It is not intended to, and does not, address the allegation arising out of the same alleged incident currently pending in the United States District Court for the Eastern District of Missouri.

sensitive restraining order on a detainee at the CJC. SUMF at 4. Later the same morning, Captain Mopkins made a second request to Tammy Ross to interview the victim of the alleged sexual misconduct by a deputy. *Id.* at 5. Captain Mopkins then saw Respondent and reported to him that Tammy Ross had stopped the Sheriff's Office Internal Affairs investigators for a second time from interviewing the victim. *Id.* At 6.

The Internal Affairs investigation by the Sheriff's Office and the criminal investigation by the St. Louis Metropolitan Police Department were two separate investigations in which neither department had any control over what the other did. SUMF at 7. In that respect, in the same way the police department did not need permission from the Sheriff's Office to interview a material witness, the Sheriff's Office did not need permission from the police department to interview a material witness. They are two entirely distinct law enforcement entities. After the first two attempts to interview the victim by Internal Affairs, Respondent himself went back over to CJC and asked for a third time if the Sheriff's Office was going to be allowed access to the detainee. *Id.* at 8. For the third time, Tammy Ross physically denied access to the detainee when requested by the Sheriff's Office. *Id.* at 9.

After the Sheriff's Office's third request for access was denied by Ross, Ross stated, "then cuff me." SUMF at 10. Wayne Honer, a POST-certified law enforcement officer, physically took out his handcuffs and Bryan Robins physically handcuffed Tammy Ross. *Id.* Honer testified under oath in his deposition that this was *not* pursuant to an order from Sheriff Montgomery. SUMF at ¶ 39. Tammy Ross was handcuffed and escorted to Major Lammert's office in the Sheriff's Office. *Id.* at 11. As

soon as Major Lammert's office was reached, Ross was seated and the handcuffs were removed. *Id.* Public Safety Director Charles Coyle was called and he asked that Ross be allowed to go back to work and Col. Yasharahla reported that Coyle told Ross in the call to allow Sheriff's deputies to carry out their lawful duties. *Id.* After Ross left Major Lammert's office on the afternoon of February 14, 2025, Col. Yasharahla radioed Captain Mopkins and Sgt. Darden that they were allowed to interview the detainee victim of the alleged sexual misconduct. Deposition of Linda Mopkins at 34-36.

C. Relevant Legal Authority and Analysis

It is black letter law that “the sheriff of the City of St. Louis shall not enforce the general criminal laws of the state of Missouri *unless* such enforcement shall be incidental to the duties customarily performed by the sheriff of the City of St. Louis.” RSMo. § 57.450 (emphasis added). Thus, it is beyond any meaningful dispute that Sheriff Montgomery has *some* authority to enforce the criminal laws even if that authority is more limited than a typical police officer. Respondent has been unable to discover any statute, case law, or regulation that further defines what duties are customarily performed by the sheriff of the City of St. Louis—and that is frequently, *and currently*, the subject of legislative debate in City Hall that led to the passage of a new ordinance in the past two weeks.

Furthermore, Missouri law expressly provides that this Sheriff's office “shall be considered a law enforcement agency with the sheriff and sworn deputies considered law enforcement officers.” RSMo § 57.450. And despite the Attorney General's terminology used in the petition, a “peace officer” is defined by state law as “a law

enforcement officer of the state *or any political subdivision of the state* with the power of arrest for a violation of the criminal code *or declared or deemed to be a peace officer by state statute.*” RSMo § 590.010(3) (emphasis added); *see also Wayne v. Washington Univ.*, No. ED 113127, 2025 WL 1932633, at *4 (Mo. Ct. App. July 15, 2025).

As to the scope of Sheriff Montgomery’s law enforcement authority, there is no dispute that he *is* in fact a law enforcement officer and a county officer. Indeed, the State, through its Attorney General, expressly alleges that Sheriff Montgomery “is a law enforcement officer” and that he is a “county officer.” *Petition* at ¶¶ 1 and 2. Because that fact was admitted in Respondent’s answer, it is deemed a judicial admission under Missouri law and that judicial admission “waives or dispenses with the production of evidence and concedes for the purpose of the litigation that a certain proposition is true.” *Peace v. Peace*, 31 S.W.3d 467, 471 (Mo. Ct. App. 2000). Where an answer admits allegations in a petition, then those admissions constitute binding judicial admissions. *In re Marriage of Maupin*, 829 S.W.2d 125, 127 (Mo. Ct. App. 1992). Thus, as a matter of law, Sheriff Montgomery *is* a law enforcement officer **and** is a county officer. In Missouri, “any sheriff or deputy sheriff” *and* “any county or municipal law enforcement officer in this state” has the authority to “arrest on view, and without a warrant, any person the officer sees violating or who such officer has reasonable grounds to believe has violated any ordinance or law of this state, including a misdemeanor or infraction, over which such officer has jurisdiction.” RSMo § 544.216. Thus, in his capacity as a county officer, Sheriff Montgomery has the power to execute warrantless arrests for any ordinance or law including misdemeanors or infractions

and, at a bare minimum, he has the power to enforce any criminal law of the state of Missouri when doing so is “incidental to the duties customarily performed by the sheriff of the City of St. Louis.” RSMo § 57.450. That rings true with respect to Sheriff Montgomery himself and with respect to Honer and Robins, the two people who actually physically handcuffed Ross. SUMF at ¶ 39.

To bring this full circle, there is no dispute that Ross knew Sheriff Montgomery came to the Jail to interview a detainee “regarding an allegation of sexual assault which the Detainee made against one of Montgomery’s Deputy Sheriffs.” *See* First Amended Complaint, Case. No. 4:25-cv-580-HEA (Doc. 22) at ¶ 4. Ross made this factual allegation herself in her lawsuit against Sheriff Montgomery. *Id.* And similarly, there is no dispute that Ross “refused to allow him to see the Detainee,” immediately thereafter prompting her “arrest.” *See id.* at ¶¶ 7 and 8. Furthermore, there is no dispute that Ross interfered with two Sheriff’s deputies serving lawful process earlier that day.

Additionally, based on Honer’s deposition testimony, there is no dispute that Sheriff Montgomery conducted legal research *prior* to walking over to the CJC where the incident involving Tammy Ross occurred—and Tammy Ross testified the Sheriff referenced the law in his discussions with her prior to her alleged detention. SUMF at ¶ 37; ¶ 38.

As such, with respect to whether Sheriff Montgomery had the authority to investigate allegations of criminal acts *made against one of his deputies*, it is black letter law that he does have the authority to conduct an internal investigation provided the

investigation is into whether one of his deputies violated a departmental policy. *See, e.g.*, RSMo § 590.502. Critically, the Missouri Court of Appeals decided earlier this year that the protections embedded within Section 590.502 only apply to “law enforcement officers as defined in the statute” and do not apply to any other person—*e.g.* an alleged victim of an assault perpetrated by a law enforcement officer. *Wayne*, 2025 WL 1932633, at *2. “Probable cause to arrest exists when the facts and circumstances within the knowledge of the arresting officers, and of which they have reasonably trustworthy information, are sufficient to warrant a belief by a person of reasonable caution that the person to be arrested has committed a crime.” *State v. Jackson*, 686 S.W.2d 21, 23 (Mo. Ct. App. 1984) (citation omitted). The determination of whether probable cause exists “is made upon practical considerations of everyday life, on which reasonable persons act, not the hindsight of legal technicians.” *Id.* (citing *State v. Heitman*, 589 S.W.2d 249, 253 (Mo. banc 1979), *cert. den.* 446 U.S. 941 (1980)). Because Sheriff Montgomery had the authority to arrest for a violation of law in his presence at a time when he was conducting an internal investigation, even assuming for the sake of argument that the Sheriff ordered the arrest despite Honer’s under-oath testimony to the contrary, the next question then turns on whether Ross’s actions constituted a crime.

To that end, Ross’s own admissions in her federal civil lawsuit are telltale: she readily admits Sheriff Montgomery came to the Jail to interview a detainee regarding an allegation of sexual assault that person made against one of Montgomery’s deputies—both on February 13, 2025 and on February 14, 2025—and she “refused to allow him

to see the Detainee.” *See* Doc. 22 at ¶ 7. By her own admission both in her lawsuit and, moreover in her sworn deposition testimony in this matter, Ross purposefully obstructed, impaired, hindered, or perverted the performance of a governmental function by the use of...other physical interference or obstacle—which constitutes a class B misdemeanor. *See* RSMo § 576.030; SUMF at 3, 5, and 9. Additionally, she interfered with lawful service of process which, itself, constitutes a crime. Indeed, Honer provided Sheriff Montgomery with a laminated green card prior to the alleged Tammy Ross incident containing criminal statute(s) governing interference with lawful service of process.

Respondent’s position is simple and fatal to Relator’s claim in Count II: even if Sheriff Montgomery is deemed civilly responsible for Ross’s alleged detention notwithstanding Honer’s testimony that the decision was his and that he was not acting pursuant to an order from the Sheriff, the bottom line remains that any law enforcement officer at that moment acted within his legal authority in executing a warrantless arrest because Tammy Ross committed a crime by *inter alia* physically interfering with the interview of a material witness in the context of an internal investigation. To be clear, for purposes of this Court’s consideration of summary judgment on this point, there are no facts upon which Relator can prove Respondent willfully violated or neglected, or knowingly or willfully failed or refused to perform his duties. Why? Employees of Sheriff Montgomery’s office lawfully made a warrantless arrest of Ross because of her hindrance of the performance of a governmental function: that is, at a minimum, the internal affairs investigation being conducted by

Respondent into an allegation of sexual misconduct by one of his deputies. In other words, the detention was legal regardless of intent or even the Sheriff's assertion of his Fifth Amendment privilege because it was legal *as a matter of law*—and that is what controls. Therefore, as a matter of law, Respondent is entitled to summary judgment on Count II.

II. Regarding Count III, Darryl Wilson was Lawfully Detained During an Internal Investigation Regarding Secondary Employment

A. The Allegations in the Petition

On the late evening of January 17, 2025, Sheriff Montgomery and one of his deputies arrived at a gas station Wilson was working private security. *Petition* ¶ 222. The other deputy with Sheriff Montgomery was Captain Anthony Anderson, commander of the secondary unit for the Sheriff's Office. *Id.* ¶ 226. The Attorney General alleges Wilson's personal firearm and security license were seized and he was detained while Sheriff Montgomery made a 911 call reporting an individual working at a gas station was impersonating a sheriff's deputy. *Id.* at ¶ 222-231. Sheriff Montgomery told responding police officers that Wilson was working secondary under the guise that he was still a sheriff's deputy. *Id.* at ¶ 234-235. Sheriff Montgomery further informed the responding police officers that "there was an ongoing internal affairs investigation into allegations that Wilson had been working at multiple places as a deputy." *Id.* at ¶ 242. The Attorney General characterizes this entire exchange with Wilson as conducted with no authority to conduct such an investigation because Wilson was no longer employed by the Sheriff's Office. *Id.* at ¶ 243-245. It further alleges the exchange that involved the detention of Wilson and holding his firearm was

for no valid reason and not incidental to any of the duties customarily performed by the Sheriff of the City of St. Louis. *Id.* at ¶ 255; 274.

B. Uncontroverted Material Facts Related to Count III

On January 17, 2025, Respondent and Captain Tony Anderson, Commander of the Sheriff's Office Secondary Unit, responded to a tip that a former deputy was working secondary wearing clothing that gave the impression he was still a deputy with the City of St. Louis Sheriff's Office. SUMF at 13. Darryl Wilson was wearing brown pants and a black top consistent with clothing worn by City of St. Louis Sheriff's Deputies while working approved secondary. *Id.* at 14. Darryl Wilson's private security license issued through Gateway Security required him to wear the uniform of Gateway Security. *Id.* At 15. Wilson was not wearing the uniform of Gateway Security. *Id.* Darryl Wilson was required to have his security license prominently displayed on his person. *Id.* At 16. He was not. *Id.*

Respondent did not disarm Wilson since Wilson voluntarily gave his firearm to Captain Tony Anderson, Commander of the Sheriff's Office Secondary Unit. SUMF at 17. Respondent called 911 and asked the St. Louis Metropolitan Police Department to investigate a person impersonating a deputy sheriff because he had a good faith belief that is what Darryl Wilson was doing. *Id.* At 18.

Captain Anderson continued his investigation and prepared a series of reports detailing how Darryl Wilson was giving the impression that he was still a sheriff's deputy and in violation of the terms of the security license issued by the watchman's division of St. Louis County and St. Louis City and attempted to give

those reports to the Circuit Attorney’s Office, which refused to accept the reports.
SUMF at 19.

C. Relevant Legal Authority and Analysis

It is black letter law that “the sheriff of the City of St. Louis shall not enforce the general criminal laws of the state of Missouri *unless* such enforcement shall be incidental to the duties customarily performed by the sheriff of the City of St. Louis.” RSMo. § 57.450 (emphasis added). Thus, it is beyond any meaningful dispute that Sheriff Montgomery has *some* authority to enforce the criminal laws even if that authority is more limited than a typical police officer. Respondent has been unable to discover any statute, case law, or regulation that further defines what duties are customarily performed by the sheriff of the City of St. Louis—and that is frequently, *and currently*, the subject of legislative debate in City Hall that led to the passage of a new ordinance in the past two weeks.

Furthermore, Missouri law expressly provides that this Sheriff’s office “shall be considered a law enforcement agency with the sheriff and sworn deputies considered law enforcement officers.” RSMo § 57.450. And despite the Attorney General’s terminology used in the petition, a “peace officer” is defined by state law as “a law enforcement officer of the state *or any political subdivision of the state* with the power of arrest for a violation of the criminal code *or declared or deemed to be a peace officer by state statute.*” RSMo § 590.010(3) (emphasis added); *see also Wayne v. Washington Univ.*, No. ED 113127, 2025 WL 1932633, at *4 (Mo. Ct. App. July 15, 2025).

As to the scope of Sheriff Montgomery's law enforcement authority, there is no dispute that he *is* in fact a law enforcement officer. Indeed, Relator expressly alleges that Sheriff Montgomery "is a law enforcement officer" and that he is a "county officer." *Petition* at ¶¶ 1 and 2. Because that fact was admitted in Respondent's answer, it is deemed a judicial admission under Missouri law and that judicial admission "waives or dispenses with the production of evidence and concedes for the purpose of the litigation that a certain proposition is true." *Peace v. Peace*, 31 S.W.3d 467, 471 (Mo. Ct. App. 2000). Where an answer admits allegations in a petition, then those admissions constitute binding judicial admissions. *In re Marriage of Maupin*, 829 S.W.2d 125, 127 (Mo. Ct. App. 1992). Thus, as a matter of law, Sheriff Montgomery *is* a law enforcement officer **and** is a county officer. In Missouri, "any sheriff or deputy sheriff" *and* "any county or municipal law enforcement officer in this state" has the authority to "arrest on view, and without a warrant, any person the officer sees violating or who such officer has reasonable grounds to believe has violated any ordinance or law of this state, including a misdemeanor or infraction, over which such officer has jurisdiction." RSMo § 544.216. Thus, in his capacity as a county officer, Sheriff Montgomery has the power to execute warrantless arrests for any ordinance or law including misdemeanors or infractions and, at a bare minimum, he has the power to enforce any criminal law of the state of Missouri when doing so is "incidental to the duties customarily performed by the sheriff of the City of St. Louis." RSMo § 57.450. False impersonation of a law enforcement officer is a class A misdemeanor under Missouri law. RSMo § 575.120.

There is no dispute that Sheriff Montgomery and Captain Anderson were acting on a tip that a former deputy was impersonating a sheriff's deputy and both were conducting an investigation upon that tip. SUMF at 13-19. It is black letter law that he does have the authority to conduct an internal investigation provided the investigation is into whether one of his deputies violated a departmental policy. *See, e.g.*, RSMo § 590.502. Critically, the Missouri Court of Appeals decided earlier this year that the protections embedded within Section 590.502 only apply to “law enforcement officers as defined in the statute” and do not apply to any other person—*e.g.* an alleged victim of an assault perpetrated by a law enforcement officer. *Wayne*, 2025 WL 1932633, at *2. Because Sheriff Montgomery had the authority to arrest for a violation of law in his presence at a time when he was conducting an internal investigation, the next question is whether Sheriff Montgomery's actions taken with Wilson were lawful since Relator must prove Respondent willfully violated or neglected, or knowingly or willfully failed or refused to perform his duties in order to prevail.

Relator cannot prevail for a number of reasons. First, the undisputed fact is that Sheriff Montgomery did not unlawfully take Wilson's weapon. He voluntarily gave it to Captain Anderson when asked for it while he was being questioned. SUMF at 17. Second, Wilson was wearing clothing that made it appear as if he were still a sheriff's deputy. SUMF at 14. The combination of black and brown clothing was common clothing worn by sheriff's deputies. *Id.* Add to that fact Wilson was not wearing the uniform of Gateway Security, which as the company under which his private security license was issued, confirms that he was giving the appearance he was a sheriff's

deputy, not a security officer working for a private company. SUMF at 15. Third, Wilson was required under the terms of his license to wear the ID card prominently on his outer clothing. SUMF at 16. He was not doing so that evening. *Id.* Finally, even more problematic for Wilson is that the CEO of Gateway Security told the Sheriff's Office they did not even have a post at that gas station, and the manager of the gas station still thought Wilson was a deputy sheriff. SUMF at 15.

All of above listed material facts not in dispute are valid reasons Sheriff Montgomery had to detain — and even arrest — Wilson for impersonating a public servant under Section 575.120(2)(b). Sheriff Montgomery's actions taken with Wilson were lawful as they were incidental to the customary duties of conducting an internal investigation regarding secondary employment. Since Relator must prove Respondent willfully violated or neglected, or knowingly or willfully failed or refused to perform his duties, this count fails, and summary judgment should be entered in favor of Respondent on Count III.

III. Regarding Count IV, Despite No Legal Duty to Transport Detainees Not under His Care Custody and Control, Respondent has Voluntarily Assisted the City of St. Louis with Such Transportation When it was Safe to Do So Based upon Staffing Considerations

A. The Allegations in the Petition

The Attorney General cited only one case for proposition that the Sheriff of the City of St. Louis had a duty to transport prisoners. *Petition* ¶ 283. The holding of the case, nor any dicta, makes no such finding. It was further alleged that between 1977 and January 1, 2025, the office of the Sheriff of the City of St. Louis had transported and guarded hospital detainees. *Petition* ¶ 284. However, as noted by the Attorney

General in its own allegations, when Respondent took on this responsibility, it was pursuant to an agreement in writing between Respondent and the City of St. Louis as evidenced by an agreement between then Sheriff James Murphy and the City of St. Louis from April 23, 1999. *Id.* ¶ 285. The next allegation cites a 2004 City Counselor's opinion that ignores a 2002 opinion from the same office that the duty to transport detainees falls on the City of St. Louis. *Compare* SUMF ¶ 20 *with* Petition ¶ 286-287.

B. Uncontroverted Material Facts Related to Count IV

The responsibility for medical care of detainees in the Criminal Justice Center lies with the City of St. Louis who has care, custody and control of those detainees. SUMF at ¶ 20. The City of St. Louis contracted with Physicians Correctional USA to provide medical care for detainees of the CJC. *Id.* at ¶ 21. Going back to at least 1999, starting with former Sheriff James Murphy, the Sheriff's Office has by voluntary agreement assisted the City of St. Louis with the emergency transport of detainees of those persons within its custody, care and control when the Sheriff's Office had the staff available to assist. *Id.* at ¶ 22. Prior to the filing of this writ, Respondent Sheriff Montgomery only denied requests for emergency medical transportation from the CJC when it did not have the staff available to safely provide the service. SUMF at ¶ 23. Respondent was not skydiving on Friday, June 20, 2025. *Id.* At ¶ 24. He was skydiving on a Sunday, June 22, 2025. *Id.*

After receiving complaints from the judges of the 22nd Judicial Circuit, including from the Presiding Judge during the en banc meeting on September 15,

2025, that the Sheriff's Office needed to focus its attention on security of the courthouses, it informed the City of St. Louis that it could no longer assist with emergency room runs. SUMF at ¶ 25; In response to this dispute over who has the legal duty to transport detainees from the CJC for emergency medical care, the St. Louis City Board of Aldermen passed Board Bill 33 which Mayor Cara Spencer signed into law on September 22, 2025, which created for the first time a legal duty for the Sheriff's Office to provide such transportation. *Id.* at ¶ 26. The Sheriff's Office filed a declaratory action on September 22, 2025, challenging the validity of the ordinance. *Id.* at ¶ 27. After a hearing on dueling requests for Temporary Restraining Order, Judge Moriarty issued an order instructing Respondent to follow the ordinance and provide emergency medical transport when requested by the City of St. Louis. See Order, dated September 30, 2025, Case No. 2522-CC09342.

C. Relevant Legal Authority and Analysis

The Missouri General Assembly has authority to pass legislation applicable to all counties, including counties with a charter form of government, that provides for the duties and powers of a county office. Section 57.010 is a general law pertaining to the organization of counties, police powers, state policy, public safety, and the administration of justice. Since the Constitution of 1875, “. . . the city of St. Louis has been denominated ‘a territorial division of the State,’ and treated as a county.” *Henderson v. Koenig And City of St. Louis*, 68 S.W. 72, 73 (Mo. 1902) citing *State ex rel. Monahan v. Walton*, 69 Mo. l. c. 556,

and subseq. cas. “And in the rules laid down for construction of our statutes, it is declared that "wherever the word 'county' is used in any law, general in its character to the whole State, the same shall include the city of St. Louis," etc. [R. S. 1899, sec. 4160.] This has been the law since 1879. *Henderson v. Koenig And City of St. Louis*, 68 S.W. 72, 73 (Mo. 1902).

In Missouri, a sheriff “is a county officer.” *State ex inf. McKittrick v. Williams*, 144 S.W.2d 98, 103 (Mo. banc 1940). Sheriff Montgomery is a law enforcement officer who leads a law enforcement agency. Section 57.450, RSMo. (...such office shall be considered a law enforcement agency with the sheriff and sworn deputies considered law enforcement officers.”). Sheriff Montgomery leads a county office created by state statute. “The statutes of Missouri set forth certain duties and responsibilities of county sheriffs.” *State ex rel. Nixon v. Russell*, 45 S.W.3d 487, 493 (Mo. App. 2001). Section 57.010 through Section 57.997, RSMo., creates, authorizes and delineates the powers and duties of sheriffs in the State of Missouri, who are county officers. In fact, Section 57.450 through Section 57.550 specifically only apply to the “Sheriff of St. Louis City.” The Sheriff’s Office receives its power to through state statutes passed by the Missouri legislature.

“No city ordinance can be put in force except through *some legislative authority*.” *State ex rel. Harry L. Hussmann Refrigerator & Supply Co. v. City of*

St. Louis, 5 S.W.2d 1080, 319 Mo. 497 (Mo. 1928). On September 19, 2025, the Board of Aldermen of the City of St. Louis passed Board Bill 33. SUMF at 26. The bill was entitled “Powers Delegated to the Sheriff of the City of St. Louis.”

On its face, the final Whereas clause of the legislation misstates state law when it proclaims that the “Sheriff of the City of St. Louis is not a law enforcement agency as that term is used under Missouri statute and understood in Missouri’s common law” since Section 57.450 specifically delineated the Sheriff of the City of St. Louis “a law enforcement agency with the sheriff and sworn deputies considered law enforcement officers.” In Section One, Respondent states it has the power to delineate the “powers and duties” of the office of the Sheriff of the City of St. Louis. In Section One, lines 15 through 18, Respondent identifies what it asserts are the powers and duties of Sheriff Montgomery: “...such powers and duties include protection of the 22nd Judicial Circuit, Circuit and Associate Circuit courts, service of summons and legal process, issuance of conceal carry permits, and the transport and protection of detainees in the custody of the Department of Corrections to receive hospital, medical, and psychological treatment.

Four duties are identified in Section One, but the final one has no basis in Section 57.010 through Section 57.997, RSMo., which creates, authorizes and delineates the powers and duties of sheriffs in the State of Missouri, who are

county officers. To carry out his duties, “The sheriff of the city of St. Louis shall, with the approval of a majority of the circuit judges of the circuit court of said city, appoint as many deputies and assistants as may be necessary to perform the duties of his office.” § 57.530.

Section Two is nothing more than a regurgitation of the current state law governing Sheriff Montgomery, Section 57.450, and has no legal effect as a city ordinance cannot changes the powers or duties of a county office where state law has preempted the field. Here, field preemption has occurred because Section 57 regarding the administration of jails by sheriffs is comprehensive and consistent with the constitutional principle that the entity with care, custody and control of a prisoner is legally responsible for their medical care. See *Estelle v Gamble*, 429 US 97 (1976). That entity here is the jailer for CJC, the City of St. Louis Division of Corrections.

Providing an inmate adequate health care, to be more specific is mandatory by law. In fact, there are only two groups of individuals who have the constitutionally guaranteed right to access medical care: 1) individuals remanded to mental health facilities, and 2) individuals arrested or incarcerated in prisons, jails, and community correctional or juvenile facilities. If a jailer knows, or should have known, that an individual under their control has a serious medical need and they fail to obtain medical services for that individual,

they have violated the individual's constitutional rights and maybe held civilly and criminally liable. See *Estelle v Gamble*, 429 US 97 (1976). The Courts have ruled that such denial of access to medical care is deliberately indifferent to the constitutional rights of the incarcerated individual. *Id.*

The City of St. Louis has acknowledged it has the legal duty to provide medical care for detainees in the custody of the Department of Corrections to receive hospital, medical, and psychological treatment, which includes transportation of them to a hospital, since it and only it has signed a contract to provide such medical care to detainees in its custody. SUMF at 21. The current contract in place was signed by the City of St. Louis' Interim Commissioner of Corrections, Doug Burris, on February 2, 2025, with Physician Correctional USA (Mo.) Inc. *Id.* Section 1.4 and Section 1.5 requires the Contractor and the City of St. Louis to arrange for and provide Emergency Services and Offsite Medical Services. Section 6.2 Transportation Off-Site states "The City will provide security as necessary and appropriate in connection with the transportation of any Inmate between the Facility and any other location for off-site services as contemplated herein." Sheriff Montgomery is not a party to the contract with the City of St. Louis and Physician Correctional USA (Mo.) Inc.

The sponsor of the legislation, Alderman Devoti, represented to Alderwoman Tyus that the Sheriff's duty to transport and supervise prisoners

was found in *State v. Jones*, 556 S.W.2d 736 (Mo. App. 1977). The holding of that opinion has nothing to do with the powers and duties of the office nor is it even stated in dicta anything about the powers and duties of the office.

Nearly a century ago, the Missouri Supreme Court recognized that the Sheriff of the City of St. Louis had no authority over the St. Louis City jail. *Lefman v. Schuler*, 296 S.W. 808, 811 (Mo. banc 1927). This clear distinction underscores Sheriff Montgomery's position that the executive and legislative branches of city government have no authority to regulate or control the duties of the Sheriff of the City of St. Louis when the duty has been preempted by state statute and is consistent with constitutional precedent concerning the care, custody and control of prisoners under the United States and Missouri Constitutions. Consistent with the holding in *Lefman*, on January 10, 2002, Associate City Counselor Michael F. Stelzer, gave a response to a question from the Commissioner of Corrections at the time, about who is responsible for medical transport of arrestee's in the custody of the Department of Corrections. Stelzer responded: "... the short answer is that it would be the responsibility of the Department of Corrections to provide such transport." SUMF at 20. Stelzer went on to cite Federal Civil Rights Law and attached a federal Circuit Court opinion that discussed the legal principle of care, custody and control that governs this area under Section 1983, the Civil Rights Act of 1866. SUMF at 20.

Regardless of how this Court comes down on whether a duty exists with the Sheriff's Office to transport detainees under the care, custody and control of the City of St. Louis, there remains the question central to the burden of proof upon Relator. Relator must prove Respondent willfully violated or neglected, or knowingly or willfully failed or refused to perform his duty. Even assuming such a duty existed at the time this action was filed, this count fails because there is no evidence Respondent knowingly or willfully failed or refused to perform transport of detainees. Every time Respondent was asked to provide an emergency transport run to a hospital for a detainee, Respondent would accommodate the request when staff was available. SUMF at 23. When Respondent did not have deputies available to grant the request, it advised the CJC it did not have staff available to transport. *Id.*

Therefore, summary judgement should be granted on this count for one of two independently sufficient reasons. First, no legal duty to transport detainees for medical emergencies existed prior to the ordinance passed by the City of St. Louis on September 22, 2025, even though Respondent had agreed since at least 1999 to voluntarily assist the City of St. Louis with its legal duty to provide medical care when it had the requisite resources and staffing. Second, Respondent, since January 1, 2025, has continued to provide emergency medical transport when it had the staffing to do so safely. Respondent only changed its policy on September 18, 2025, regarding the transportation of prisoners for

emergency medical care after receiving complaints about courthouse security from the judges of the 22nd Judicial Circuit. Therefore, there are no facts upon which Relator may prevail on Count IV.

IV. Regarding Count V, Respondent has not used public resources for personal gain

A. The Allegations in the Petition

The Attorney General alleged Respondent used the labor of Sergeant Barbara Chavers for his personal gain in violation of Section 105.452. *Petition* ¶ 323; ¶ 326. To reach that conclusion, Relator asserts Respondent ordered Sergeant Chavers to pick up his children from school while she was on duty. *Id.* at ¶ 327; ¶ 328. Relator further alleges that Respondent used his office for childcare services for his children to benefit him personally. *Id.* At ¶337; ¶ 338.

B. Uncontroverted Material Facts Related to Count V

Sgt. Barbara Chavers had a relationship with Respondent's children that predated his election as Sheriff of the City of St. Louis. SUMF at ¶28. The children refer to Sgt. Chavers as their "granny," and she considers them to be her "spiritual grandchildren." *Id.* at ¶29; ¶31. Respondent did not order Sgt. Barbara Chavers to pick up his children from school. *Id.* at ¶30. Chavers picked up the children from school after her shift had ended. *Id.* at ¶31. Chavers at the time was authorized to drive a department vehicle to and from work and paid by payroll deduction, pursuant to City of St. Louis policy, the amount required for the fringe benefit. *Id.*

at ¶32.

C. Relevant Legal Authority and Analysis

The Attorney General alleged Respondent used the labor of Sergeant Barbara Chavers for his personal gain in violation of Section 105.452. As the undisputed material facts show, Sgt. Chavers picked the Sheriff's children up on occasion because she had a personal relationship with the children that pre-dated Respondent's election of the office. There is also no evidence that Sgt. Chavers was ordered to do this by Respondent. Sgt. Chavers also followed the proper procedure and had the requisite deductions taken out of her paycheck to use a take home car at the time. Sgt. Chavers also picked up the children after school when she was off duty. So there is no evidence Sgt. Chavers was picking up the children when she should have been working. Finally, the claim that bringing the Sheriff's children to the office after school before mom could pick them up was somehow unauthorized childcare services that personally benefitted Respondent is as absurd as it is nonsensical. Relator has, of course, cited no caselaw that supports such a finding.

Therefore, since Sgt. Chavers was not ordered to pick up Respondent's children and she was doing it after hours in a vehicle she was authorized to take home, there is no violation of a duty or personal gain on behalf of Respondent. Summary judgement should be granted as to Count V.

V. Regarding Count VI, Respondent has not mismanaged the finances of the Sheriff's Office

A. The Allegations in the Petition

The Attorney General made several allegations regarding Respondent's management of the department's finances. The Attorney General alleged Respondent violated his duty to manage the finances of his office because 1) Respondent hired his own administrators upon election that resulted in a deficit under a budget that had been set under the previous administration; 2) Respondent purchased new uniforms and badges; 3) Respondent bought a police vehicle for use by the department in its official duties; 4) Respondent purchased four golf carts for use by the department for secondary work under the downtown detail that provides security to downtown businesses and restaurants; 5) Respondent bought surveillance robots to enhance security capability of the department; and 6) Respondent hired more than one administrator, who happened to be also licensed attorneys, in contravention of Section 57.540. *Petition* ¶346 - ¶416.

B. Uncontroverted Material Facts related to Count VI

Respondent purchased used golf carts at a significant cost savings for use in its downtown detail, which provided security for downtown businesses that requested secondary employment of Sheriff's deputies. SUMF at ¶33. Respondent purchased new uniforms to provided a fresh start and new look for the department and new badges because of concerns over proliferation of older badges being used for improper purposes. *Id.* At ¶34. Respondent purchased a Chevy Tahoe, as allowed under city ordinance, for the head of a law enforcement agency, for multiple reasons. *Id.* at ¶35. First, the fleet of cars for the Sheriff's Office are in poor repair. Second, to provide Respondent a vehicle to drive to and from work. Third, so that

the Tahoe can be used by units of the office during the work day, like outside services and evictions. After Respondent offered positions in his administration to former line officers of Sheriff Betts that some accepted, and others did not, at least twelve were discharged prior to December 31, 2024, by former Sheriff Vernon Betts. *Id.* At ¶36. According to department records created before Respondent took office, those former employees had accrued certain fringe benefits which were required by law to be paid, and were paid by the City of St. Louis through its personnel department. *Id.*

C. Relevant Legal Authority and Analysis

There is no dispute that Respondent has a duty to manage the finances of his office since it lies fairly within the scope of Respondent's office. *Foote*, 903 S.W.2d at 538, *abrogated on* other grounds by *State v. Olvera*, 969 S.W.2d 715 (Mo. 1998). What is also not in dispute is that all of the items identified by the Attorney General in this count for purchase were all done for the benefit of the Sheriff's Office. Moreover, fringe benefits due terminated employees are governed by state and federal law. There is no suggestion Respondent is unable to hire his own line staff to run his office. The benefits owed those former employees are not the result of some financial mismanagement. If recorded accurately and lawfully, those fringe benefits were earned by those employees who were discharged.

The Tahoe is used by the Sheriff to drive to and from home and it is used by deputies during the day for service of process and evictions. The uniforms, badges, robots and golf carts are all used by deputies to perform functions of the office, ranging from courthouse security to the downtown detail for support of downtown businesses. The Attorney General may believe the funds should not have been used in that way, but that is no way proof that Respondent willfully violated or neglected, or knowingly or willfully failed or refused to perform his duty. A policy difference in the application of a budget approved by a prior administration by the next administration hardly rises to the level of judicial ouster of a democratically elected official. Therefore, summary judgment should be granted on Count VI.

Wherefore, upon good cause shown upon the record presented, Respondent respectfully requests that the remaining counts in Relator's Petition be dismissed as Respondent is entitled to judgment on each count as there are no genuine issues of material fact upon which Relator could prevail.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2025, I filed this pleading through the Court's electronic filing system which will email a copy to all counsel of record.

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