

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

CITY OF ST. LOUIS,

PLAINTIFF,

Cause No.

STATE OF MISSOURI,

Serve: Catherine Hanaway
Office of Attorney General
207 High Street
Jefferson City, MO 65102

DEFENDANT.

PETITION FOR DECLARATORY JUDGMENT

COMES NOW Plaintiff City of St. Louis, by and through counsel, and for its Petition for Declaratory Judgment, states as follows.

INTRODUCTION

1. The sheriff of the City of St. Louis is incarcerated and is the subject of a quo warranto proceeding prosecuted by the Attorney General to remove the sheriff from office. On information and belief, the governor and the Attorney General of the State of Missouri maintain that the governor is the proper party to appoint a replacement sheriff in the City of St. Louis in the event of a vacancy in that office. The City asserts that this responsibility rests with its chief executive officer, the mayor. But when a vacancy occurred in the office of sheriff more than 40 years ago, it was the City's Board of Aldermen that chose a replacement sheriff. In order to resolve uncertainty surrounding this issue and because intervening Supreme Court authority now makes

clear the City mayor possesses the exclusive duty to choose a replacement sheriff, the City seeks the judgment of this Court, declaring what official is responsible for making such appointments.

2. Missouri law requires that a replacement sheriff be appointed within two weeks of a vacancy, which leads the City to request expedited consideration and judgment from this Court.

Timely clarity on this question of public importance is in the best interest of all interested parties.

PARTIES

3. The City of St. Louis is a constitutional charter City organized and existing under law with the capacity to sue, and, pursuant to Article VI, Section 31 of the Missouri Constitution, it is recognized both as a city and as a county.

4. Defendant State of Missouri is a political body organized and existing under the Missouri Constitution and the United States Constitution, acting through the General Assembly and governor.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to the Declaratory Judgment Act, RSMo. §§ 527.010 and 527.020, in as much as Plaintiff seeks a declaration of its rights and obligations under Missouri law and the Charter of the City of St. Louis. Venue is proper in this Court because the office of the sheriff of the City of St. Louis is located within the City of St. Louis and the occurrences giving rise to this action occurred within the City of St. Louis.

COUNT I – DECLARATORY JUDGMENT

6. Alfred Montgomery (“Montgomery”) was elected sheriff of the City of St. Louis and assumed that office on January 1, 2025.

7. On October 14, 2025 Montgomery was ordered to jail after he was indicted on several federal felony charges.

8. As of the date of this filing, Montgomery remains in federal custody.

9. Additionally, the State of Missouri has filed a petition seeking an order of quo warranto immediately removing Montgomery from office. Trial in the quo warranto proceeding commenced on November 17, 2025 in the Twenty-Second Judicial Circuit and concluded on November 25, 2025.

10. Missouri law provides that no later than two weeks after the occurrence of the vacancy of the office of sheriff, such vacancy shall be filled by appointment. *See* RSMo. § 105.030.2.

11. At present there is no duly elected sheriff of the City of St. Louis who is presently capable of personally discharging the duties and responsibilities of that office.

12. In the absence of a duly elected sheriff of the City of St. Louis capable of personally discharging the duties and responsibilities of that office, together with the conclusion of the quo warranto trial, a ripe, justiciable controversy has arisen between the parties regarding who possesses the authority and obligation to appoint the sheriff of the City of St. Louis upon a vacancy in that office.

***The authority to fill a vacancy in the office of sheriff
of the City of St. Louis vests exclusively with the City of St. Louis***

13. As set forth herein, Missouri law and controlling Missouri Supreme Court authority compel the conclusion that the City of St. Louis possesses the exclusive authority to appoint a sheriff of the City of St. Louis upon a vacancy in that office, and further, that Missouri law and the Charter of the City of St. Louis vest the mayor of the City of St. Louis with that power and duty.

14. Yet, both the Attorney General and Missouri Governor Mike Kehoe recently expressed the belief that the governor would appoint a sheriff of the City of St. Louis upon a vacancy in that office. By way of example, when asked who had that authority, Governor Kehoe stated there will be “multiple opinions,” and that “[i]f it’s Mayor Spencer’s pick, I think she knows what St. Louis

needs... She would be great. If it's my pick, I'll work with the mayor to figure out who we think is the right person.”

15. As another example of the uncertainty, Missouri Attorney General Catherine Hanaway was recently asked who picks the sheriff's replacement and responded: “the Governor.”

16. Contrary to the comments of the Attorney General and governor, Missouri law specifically excludes sheriffs from the officers that the governor appoints in the event of a vacancy. *See* RSMo. § 105.030.1 (providing that “[w]henver any vacancy, caused in any manner or by any means whatsoever, occurs or exists in any state or county office originally filled by election of the people, *other than in the offices of* lieutenant governor, state senator or representative, *sheriff*, or recorder of deeds in the City of St. Louis, the vacancy shall be filled by appointment by the governor”)

(emphasis added).

17. Chapter 57 of the Revised Statutes of Missouri governs sheriffs in Missouri. Sections 57.010 through 57.445 pertain to sheriffs of the counties of this state generally, whereas §§ 57.450 through 57.550 apply exclusively to the sheriff of the City of St. Louis.

18. RSMo. § 57.450 provides that “[*a*ll general laws relating and applicable to the sheriffs of the several counties of this state shall apply to the same officer in the City of St. Louis, except 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.” (emphasis added).

19. RSMo. § 57.080 provides that “[w]henver from any cause the office of sheriff becomes vacant, the same shall be filled by the county commission...”

20. RSMo. § 82.700 provides that “[a]ll acts and parts of acts which provide for the performance of any duty or trust by any county commission in this state shall also include the municipal assembly, and the mayor and comptroller of the city of St. Louis.”

21. The City of St. Louis is both a city and a county. *See* Mo. Const. Art. VI, § 31 (providing that “the City of St. Louis, as now existing, is recognized both as a city and as a county...”)

22. Whenever the word “county” is used in any general law applicable to the entire state, it includes the City of St. Louis. RSMo. § 1.080.

23. RSMo. § 105.260 provides that “[a]ll laws requiring any officer of any county to perform any duty, service, or trust under the laws of this state shall include all corresponding city officers named in the charter and scheme of separation for the government of the city and county of St. Louis.”

24. On information and belief, it appears the Attorney General and/or the governor may base their positions upon Article IV, § 4 of the Missouri Constitution, which states in pertinent part, “[t]he governor shall fill all vacancies in public offices **unless otherwise provided by law.** . . .” (emphasis added). But as described above, Missouri laws provides that the governor does not appoint sheriffs when a vacancy occurs, that general laws pertaining to sheriffs apply to the City of St. Louis, and that vacancies in the office are filled by the City’s equivalent of a county commission.

25. For those reasons, the governor has no authority to appoint the sheriff of the City of St. Louis pursuant to Article IV, § 4 of the Missouri Constitution because such authority is “otherwise provided by law.”

26. With this framework in mind, the exclusive authority to appoint a sheriff of the City of St. Louis is vested in the “county commission” of the City of St. Louis.

***The mayor of the City of St. Louis fills a vacancy in
the office of sheriff of the City of St. Louis***

27. The next question is which City official serves as the “county commission” for purposes of appointing a replacement sheriff when a vacancy occurs. As noted above, the county commission appoints replacement sheriffs (RSMo. § 57.080) and, when the City acts in its role as a county, the “county commission” consists of “the municipal assembly, and the mayor and comptroller of the city of St. Louis.” RSMo. § 82.700.

28. The Missouri Supreme Court has made clear: where a duty is imposed on the “county commission” of the City of St. Louis, courts look to the Charter of the City of St. Louis for clarity regarding who constitutes the “county commission” in the specific context at issue. *See State ex rel. Twenty-Second Judicial Circuit v. Jones*, 823 S.W.2d 471, 473 (Mo. banc 1992) (looking to the Charter of the City of St. Louis to determine who constituted the “county commission” of the City of St. Louis in the context of the budgetary dispute at issue and holding that, because the City Charter requires expenditures to be appropriated by the Board of Alderman upon recommendation of the Board of Estimate and Apportionment and are subject to veto by the mayor, the “county commission... in the context of Chapter 50, RSMo... is... the Board of [Estimate and Apportionment], the Board of Alderman, and the mayor jointly”). In the budget context, the Supreme Court relied upon the City Charter and included the City’s Board of Estimate and Apportionment as part of the “county commission” even though that Board is not among the entities listed in RSMo. § 82.700. 823 S.W.2d at 473.

29. Although the City’s Board of Aldermen previously made appointments to fill prior vacancies in the office of sheriff in the 1970s, the Supreme Court’s subsequent decision in *State ex rel. Twenty-Second Judicial Circuit v. Jones* clarifies that the proper approach is to look to the

City Charter for authority regarding appointments in vacant seats of elected officials. The Charter assigns the responsibility and duty to make such appointments to the mayor.

30. The mayor of the City of St. Louis serves as “chief executive officer of the city” and “except as by law or in this charter otherwise provided, [shall] have and exercise all the executive power of the city.” *See* City of St. Louis Charter Art. VII, § 1.

31. City Charter Art. VIII, § 6 provides that “[a]ny vacancy in any elective office ... shall be filled by appointment of the mayor until a successor is elected and qualifies.”

32. Because Missouri law unambiguously vests the “county commission” of the City of St. Louis with authority to appoint a sheriff upon a vacancy in that office and because the Charter of the City of St. Louis provides that the county commission’s authority in this context is vested in the Mayor of the City of St. Louis, the mayor of the City of St. Louis possesses the exclusive authority and obligation to appoint a sheriff of the City of St. Louis upon a vacancy in the office.

33. As set forth herein, a ripe and justiciable controversy presently exists between the State of Missouri and the City of St. Louis regarding who possesses the authority and obligation to appoint the sheriff of the City of St. Louis upon a vacancy in that office.

34. This Court is empowered by the Missouri Constitution, by RSMo. § 527.010, § 527.020, and by Missouri Rule of Civil Procedure 87 to finally declare the rights, status, and other legal relations between the State of Missouri and the City of St. Louis and to declare that the mayor of the City of St. Louis possesses the exclusive authority and obligation to appoint a sheriff of the City of St. Louis upon a vacancy in the office.

35. The City has a legally protectible interest in determining and clarifying the mayor’s authority to appoint the sheriff of the City of St. Louis and in preventing unauthorized attempts by other officials to impede the mayor’s authority.

36. No other adequate remedy at law exists to finally resolve the presently existing controversy between the State of Missouri and the City of St. Louis regarding who possesses the authority and obligation to appoint the sheriff of the City of St. Louis upon a vacancy in that office such that a declaratory judgment from this Court is necessary and in the public interest.

37. The City respectfully requests that the Court declare that the mayor of the City of St. Louis possesses the exclusive authority and obligation to appoint a sheriff of the City of St. Louis upon a vacancy in the office.

WHEREFORE, the City of St. Louis respectfully requests that the Court: Enter a final declaratory judgment in favor of the City of St. Louis, declaring that the mayor of the City of St. Louis possesses the exclusive authority and duty to appoint a sheriff of the City of St. Louis upon a vacancy in the office; and grant the City of St. Louis any further relief as the Court deems just under the circumstances.

Respectfully submitted,

MICHAEL GARVIN,
CITY COUNSELOR

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