

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS—EASTERN DISTRICT**  
**DIVISION ONE**

STATE OF MISSOURI,	)	No. ED103062
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of Montgomery County
vs.	)	12AA-CR00306-02
	)	
MALLORIE M. BARNETT,	)	Honorable Wesley C. Dalton
	)	
Defendant/Appellant.	)	FILED: September 13, 2016

Mallorie M. Barnett (Defendant) appeals from the judgment upon her conviction following a jury trial for one count of Sexual Contact with a Prisoner or Offender by Probation/Parole Officer/Employee of Jail, Prison, or Correctional Facility, in violation of Section 566.145, RSMo 2000,<sup>1</sup> for which she was sentenced to thirty days in the county jail.

AFFIRMED.

Division One Holds: The trial court did not clearly err in denying Defendant’s motion to dismiss<sup>2</sup> as the State sufficiently proved Defendant committed the offense of having sexual contact with a prisoner or offender in that Victim was an “offender” and Defendant was an “employee” of a facility squarely within the meaning of Section 566.145. In addition, the trial court did not err in denying Defendant’s motion to suppress her confession because Defendant was not subject to custodial interrogation and therefore the investigator was not required to inform Defendant of her Miranda rights before initiating questioning.

Opinion by: Mary K. Hoff, J.  
Robert M. Clayton III, P.J., and Lisa P. Page, J, Concur.

Attorney for Appellant: Andrew S. Garnett  
Kristin L. Arnold, Co-Counsel  
Attorney for Respondent: Christine K. Lesicko

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN  
PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR  
CITED.**

<sup>1</sup> Unless otherwise indicated, all further statutory references are to RSMo 2000 as amended.

<sup>2</sup> Defendant filed a pre-trial Motion to Dismiss for Failure to State Offense, arguing that the evidence was insufficient to sustain her conviction for sexual contact with an inmate. Following a hearing on the matter, the motion was denied. Defendant also filed a motion for judgment of acquittal at the end of State’s evidence, for judgment of acquittal at the close of all the evidence, and a motion for new trial in which she preserved both points on appeal. While Defendant’s Point I only addresses the Motion to Dismiss for Failure to State Offense, we gratuitously consider Defendant’s motion to dismiss as a claim denying her motion for judgment of acquittal.