

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

THOMAS KEITH MASON,

Appellant

v.

STATE OF MISSOURI.

Respondent

DOCKET NUMBER WD73066

DATE: February 28, 2012

Appeal From:

Circuit Court of Buchanan County, MO
The Honorable Daniel Fred Kellogg, Judge

Appellate Judges:

Special Division
James Edward Welsh, P.J., Cynthia L. Martin, and Gary D. Witt, JJ.

Attorneys:

Laura G. Martin, Kansas City, MO

Counsel for Appellant

Attorneys:

Shaun J. Mackelprang, Jefferson City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**THOMAS KEITH MASON, Appellant, v.
STATE OF MISSOURI, Respondent**

WD73066

Buchanan County

Before Special Division Judges: Welsh, P.J., Martin, and Witt, JJ.

Thomas K. Mason appeals the circuit court’s denial of his Rule 24.035 motion for post-conviction relief after Mason pled guilty to first-degree statutory sodomy. Mason contends that the circuit court erred when it overruled his Rule 24.035 motion because: (1) the court illegally considered Mason’s prior juvenile adjudication in California for “Lewd and Lascivious Acts With a Child Under 14” when imposing Mason’s sentence, contending that section 211.321.1, RSMo Cum. Supp. 2011, prohibits such information from sentencing consideration; (2) the prosecutor’s use of Mason’s California juvenile adjudication, in arguing for a lengthy sentence, violated Mason’s due process rights and constituted prosecutorial misconduct, and (3) Mason’s attorney’s failure to object to the sentencing assessment report, that contained Mason’s California juvenile adjudication, violated Mason’s rights to due process and effective assistance of counsel.

AFFIRMED

Special Division holds:

The circuit court did not err in overruling Mason’s Rule 24.035 motion because section 211.321 governs the mandated disclosure of specified Missouri juvenile crimes for purposes of presentence investigations and does not otherwise limit the content of sentencing assessment reports. The sentencing assessment report’s reference to Mason’s California juvenile offense of “Lewd and Lascivious Acts With a Child Under 14” was not prohibited by section 211.321.

Opinion by James Edward Welsh, Judge

February 28, 2012

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.