

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI,
RESPONDENT**

vs.

**CHRISTOPHER M. SANDERS,
APPELLANT**

DOCKET NUMBER WD76452

DATE: FEBRUARY 3, 2015

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Edith Messina, Judge

Appellate Judges:

Division One: Joseph M. Ellis, P.J., Karen King Mitchell and Anthony Rex Gabbert, JJ.

Attorneys:

Shaun Mackelprang, for Respondent

Jeannette L. Igbenebor, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI, RESPONDENT

v.

CHRISTOPHER M. SANDERS, APPELLANT

WD76452

Jackson County, Missouri,

Before Division One Judges: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Anthony Rex Gabbert, J.

Christopher Sanders appeals from his conviction in the Circuit Court of Jackson County of one count of murder in the second degree, § 565.021, related to the death of Sherilyn Hill at the Royal Inn Motel on November 22, 2011. At trial, the jury was given verdict directing instructions on murder in the second degree and voluntary manslaughter along with a self-defense instruction. The court denied, however, Appellant's request that the jury be instructed on the lesser-included offense of involuntary manslaughter. In his sole point on appeal, Appellant contends that the trial court committed reversible error by refusing to give that instruction.

REVERSED AND REMANDED.

Division One holds:

- (1) Involuntary manslaughter is a "nested" lesser-included offense of second-degree murder, as it is comprised of a subset of the elements of second-degree murder.
- (2) Because there was sufficient evidence to prove the elements of second-degree murder, there was, necessarily, sufficient evidence to prove the elements of the nested lesser-included offense of involuntary manslaughter.
- (3) The State's contention that there was insufficient evidence to support an instruction asking whether Appellant had recklessly caused the victim's death by kicking her because the medical examiner testified that she had died as a result of both blunt force trauma and strangulation is without merit. The jury was not required to accept as credible the medical examiner's testimony that the victim was strangled, that strangulation was a cause of her death, or that strangulation occurred prior to her death. It could instead simply focus upon the testimony and physical evidence related to the excessive nature of the blunt force trauma injuries sustained

by the victim and upon Brown's testimony that the victim's body was lifeless after Appellant finished kicking her and that she thought Hill was dead when she fled the hotel room.

- (4) The submission of the voluntary manslaughter instruction and finding of guilt on the second-degree murder charge do not serve to rebut the presumption that Appellant was prejudiced by the trial court's failure to submit the requested involuntary manslaughter instruction to the jury.

Opinion by Joseph M. Ellis, Judge

Date: February 3, 2015

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