

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

KYLE SHORT,

Appellant,

v.

MISSOURI BOARD OF PROBATION AND PAROLE,

Respondent.

DOCKET NUMBER WD77964

Date: February 24, 2015

Appeal from:
Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Appellate Judges:
Division Four: Alok Ahuja, Chief Judge, Presiding, Joseph M. Ellis and Lisa White
Hardwick, Judges

Attorneys:
Kyle Short, Licking, MO, Appellant Pro Se.
Gregory M. Goodwin, Jefferson City, MO for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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Appellant,

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MISSOURI BOARD OF PROBATION AND PAROLE,

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Before Division Four: Alok Ahuja, Chief Judge, Presiding, Joseph M. Ellis and Lisa White Hardwick, Judges

Kyle Short appeals from the summary judgment entered in favor of the Missouri Board of Probation and Parole ("Board") on his petition for declaratory judgment. In his petition, Short sought declarations concerning his conditional release date and parole eligibility on sentences for multiple convictions. The circuit court found that Short is not eligible for parole and that the Board correctly determined his conditional release date.

AFFIRMED, IN PART, AND REVERSED AND REMANDED, IN PART.

Division Four holds:

(1) The circuit court did not err in granting summary judgment on the basis that the Board correctly calculated Short's conditional release date on his consecutive sentences. In determining the conditional release date on consecutive sentences, the offender is to serve all of his prison terms consecutively, followed by the consecutive running of the conditional release terms. This is precisely how the Board calculated Short's conditional release date.

(2) The circuit court erred in granting summary judgment based on its determination that Short's ineligibility for parole on his tampering with a victim or witness sentence, his third of three consecutive sentence groups, renders him ineligible for parole on all of his sentences. Although the plain language of Section 575.270.3, RSMo Cum. Supp. 2013, prohibits parole for that sentence, it does not institute an absolute, lifetime ban on parole for other sentences. Short's parole eligibility date can be calculated by adding together the minimum parole eligibility terms for his parole-eligible sentences in sentence groups one and two and the entire ten-year term for his non-eligible tampering sentence in sentence group three.

Opinion by: Lisa White Hardwick, Judge

February 24, 2015

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