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Appeal No. ED89409

89501

SEP 5 2008

Thomas F. Simon
CLERK, SUPREME COURT

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JURISDICTIONAL STATEMENT

On July 12, 1996, Appellant Michael J. Teer was found guilty of four counts of involuntary manslaughter, a class C felony, in violation of Mo. Rev. Stat. § 565.024 (Counts I, II, III, IV) and second-degree assault, a class C felony, in violation of Mo. Rev. Stat. § 565.060 (Count V) after a jury trial before the Hon. William T. Lohmar, 11th Judicial Circuit. The court sentenced Mr. Teer on September 26, 1996 as a prior offender to a term of four years' imprisonment in the custody of the Missouri Department of Corrections on Count I; four years' imprisonment on Count II; four years' imprisonment on Count III; four years' imprisonment on Count IV; and four years' imprisonment on Count V; all terms to run consecutively for a total twenty (20) years' imprisonment.

On January 10, 2007, in Cause No. 11V019803004, the Hon. Ted C. House sustained Mr. Teer's Amended Motion to Correct Judgment and Sentence and Request for Evidentiary Hearing under Rule 29.15. On February 23, 2007, the court resentenced Mr. Teer to term of four years' imprisonment in the custody of the Missouri Department of Corrections on Count I; four years' imprisonment on Count II; four years' imprisonment on Count III; four years' imprisonment on Count IV; and four years' imprisonment on Count V; all terms to run consecutively.

On March 1, 2007, Mr. Teer filed a Notice of Appeal to this Court. He was granted leave to file his appeal as a poor person. He appeals to this Court because

he does not raise any issue reserved for the Missouri Supreme Court's exclusive jurisdiction. Mo. Const. Art. V, § 3 (2000); Mo. Rev. Stat. § 477.050 (2000).¹

* * * * *

Sources will be cited as follows: legal file – “L.F.” and trial transcript – “Tr.”

¹ All further statutory references are to Mo. Rev. Stat. 1994, unless otherwise noted.

STATEMENT OF FACTS

Appellant Michael J. Teer was found guilty of second-degree assault and four counts of involuntary manslaughter and sentenced as a prior offender to a total twenty (20) years' imprisonment in the custody of the Missouri Department of Corrections after the jury had recommended no more than four years' imprisonment in the St. Charles County Jail (Tr. 744-46, 777-78; L.F. 94-98, 106-09). Mr. Teer asks this Court to reverse the sentences of the trial court and remand for a resentencing following the jury's recommendation, or in the alternative, reverse the sentences and judgment of the trial court and remand for a new trial because the trial court erred in granting the state's motion to file an amended information after the jury had retired to deliberate its verdict.

Mr. Teer was charged with causing the deaths of Ms. Beverly Ann Haney and her children Lawrence D. Haney and Tiara R. A. Haney and injuring Ms. Brenda Carson and causing her daughter Latosha Edwards' death in a vehicle collision on July 4, 1994 (L.F. 18-22). Mr. Teer was charged by information on September 16, 1994 (L.F. 18-22).

Mr. Teer's trial began on July 9, 1996 (Tr. 1). During voir dire, the state asked the jurors if they could not consider the full punishment range:

Now, the range on these are [sic] what they call class C felonies.
... [T]he range of punishment for a Class C felony goes anywhere
from a day in the County Jail to seven years in the Missouri
Department of Corrections and/or a fine to be determined by the

Court, and the maximum fine the Court can impose is seven thousand dollars

(Tr. 19). A venireperson told the state that he had received probation after being arrested for driving while intoxicated, but could consider the whole range of punishment (Tr. 49-50). Another told the defense during the state's voir dire that his father had killed someone while driving drunk (Tr. 38-39). But the venireperson would not have any concern about what happened to his father during Mr. Teer's trial (Tr. 40). A third told the state in open court that he might have a problem with punishment because it was "maybe too light" (Tr. 48). The court struck that particular venireperson for cause because he might want to impose a greater punishment than the law permitted (Tr. 182).

The defense questioned venirepersons about past jury service (Tr. 104-14). They were asked if they had recommended punishment with a verdict and some had (Tr. 108, 110-12).

After the state rested, it told the court it was going to ask leave to file an amended information charging Mr. Teer as a prior offender (Tr. 526). The defense pointed out that the jury was already impaneled and the state had rested (Tr. 526). The state contended it could file an amended information before the case was submitted to the jury (Tr. 527).

Defense counsel protested, saying that he had received a letter from the state only a week ago advising him that it had just received copies of Mr. Teer's prior conviction, and the state was trying to amend the information three days into

not guilty – they would speculate why they were no longer assessing punishment (Tr. 533). If the jurors were allowed to assess punishment, they would use that power to settle any disagreements on guilt with a compromise verdict (Tr. 534). The defense also argued that allowing the state to amend the information would prevent the jurors from letting the court know how seriously they considered the offenses (Tr. 534).

The court read the instructions to the jurors before closing arguments (Tr. 696). The instructions asked the jurors to assess a punishment should they find Mr. Teer guilty (L.F. 71-72, 74-75, 77-78, 80-81, 83-84). Despite the defense's protests, the court accepted the state's amended information charging Mr. Teer as a prior offender after the jurors had left the courtroom to deliberate (Tr. 741-42; L.F. 39-43).

The jurors found Mr. Teer guilty of Counts I-V and assessed the following punishments: ten (10) months' imprisonment in the St. Charles County Jail in Counts I-IV and eight months' imprisonment in Count V (L.F. 49-53). At the sentencing hearing, the court told Mr. Teer,

This is a case of enhanced punishment. This is a case where an Information was filed and you were found to be a prior offender by virtue . . . of a stealing offense in St. Louis County (Tr. 776). The judge sentenced Mr. Teer as a prior offender to four years' imprisonment in the Missouri Department of Corrections on each count, to be

served consecutively for a total of twenty (20) years' imprisonment (Tr. 776-78; L.F. 15-17).

In the Motion for New Trial, the defense raised as error the court's allowing the state to file the amended information charging Mr. Teer as a prior offender:

"That the Court erred in granting the State's Motion to amend the Information at the close of the case, and after the jury had retired to deliberate on its verdict" (L.F. 100).

Mr. Teer now appeals the trial court's sentence and judgment. Further facts will be adduced as needed in the Argument section.

POINT RELIED ON

The trial court erred in granting the state's motion to file an amended information charging Mr. Teer as a prior offender after the jury had begun deliberations because it violated Mr. Teer's rights to due process, equal protection of law, trial by jury, fair and reliable sentencing, and freedom from cruel and unusual punishment³ in that Missouri Revised Statute § 558.021.2 requires that the state in a jury trial plead all essential facts warranting a finding that the defendant is a prior offender before the case is submitted to the jury. Mr. Teer was prejudiced by the court's error because the court found Mr. Teer a prior offender and ordered sentences five times longer than the maximum incarceration assessed by the jury.

State v. Wood, 662 S.W.2d 876 (Mo. App. W.D. 1983)

State v. Emery, 95 S.W.3d 98 (Mo. banc 2003);

State v. Chunn, 636 S.W.2d 166 (Mo. App. S.D. 1982);

State v. Hunter, 586 S.W.2d 345 (Mo. banc 1979);

Mo. Const., Art. 1, § 2;

Mo. Const., Art. 1, § 10;

Mo. Const., Art. 1, § 18(a);

³ These rights are guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution, and Article I, §§ 2, 10, 18(a), and 21 of the Missouri Constitution.

Mo. Const., Art. 1, § 21;

U.S. Const., Amend. V;

U.S. Const., Amend. VI;

U.S. Const., Amend. VIII;

U.S. Const., Amend. XIV;

Mo. Rev. Stat. § 545.290;

Mo. Rev. Stat. § 557.036;

Mo. Rev. Stat. § 558.016;

Mo. Rev. Stat. § 558.021 (1978);

Mo. Rev. Stat. § 558.021;

Mo. Sup. Ct. Rule 23.08;

Mo. Sup. Ct. Rule 29.11;

Mo. Sup. Ct. Rule 30.20; and

MAI-CR2d 2.60.

ARGUMENT

The trial court erred in granting the state's motion to file an amended information charging Mr. Teer as a prior offender after the jury had begun deliberations because it violated Mr. Teer's rights to due process, equal protection of law, trial by jury, fair and reliable sentencing, and freedom from cruel and unusual punishment⁴ in that Missouri Revised Statute § 558.021.2 requires that the state in a jury trial plead all essential facts warranting a finding that the defendant is a prior offender before the case is submitted to the jury. Mr. Teer was prejudiced by the court's error because the court found Mr. Teer a prior offender and ordered sentences five times longer than the maximum incarceration assessed by the jury.

Preservation Statement

This issue has been preserved for appeal. The defense objected to the amended information being filed when the state first said it would request leave to file one, again when the state requested leave to file the amended information, and then finally when the court granted the state leave to file the amended information and the state did, after the jury had retired to deliberate (Tr. 526, 530-52, 742). In the Motion for New Trial, the defense stated that the trial court had "erred in granting the State's Motion to amend the Information . . . after the jury had retired to deliberate on its verdict" (L.F. 100). Mo. Sup. Ct. Rule 29.11(d).

⁴ See n.4.

If this Court decides this issue has not been properly preserved, Mr. Teer respectfully requests the Court review this issue as plain error. This Court may choose to review plain error affecting substantial rights when it finds manifest injustice or miscarriage of justice has occurred. Mo. Sup. Ct. Rule 30.20.

Review Standard

Where the trial court gives an instruction violating a statute, the court has committed error. State v. Wood, 662 S.W.2d 876, 878 (Mo. App. W.D. 1983)(Bardgett, J., dissenting). For reversal, the error must be prejudicial. Id.

The trial court erred in allowing the state to file an amended information

At Mr. Teer's trial, the trial court instructed the jury on the ranges of punishment for the charged offenses because – at the time the jurors were given the instructions – Mr. Teer had not been classified a prior offender. Mo. Rev. Stat. § 557.036.2(2). Where the jurors assess punishment, the court imposes it, but cannot exceed the term that the jurors assess unless they declare a punishment less than the authorized lowest term. Mo. Rev. Stat. § 557.036.3.

Where the state pleads and proves that the defendant is a prior offender, the court is not to instruct the jurors on punishment. Mo. Rev. Stat. §§ 557.036.2(2), 558.016.1. A prior offender is one who has pleaded guilty to or been found guilty of one felony. Mo. Rev. Stat. § 558.016.2. For a trial court to find a defendant a prior offender, 1) the information must plead all essential facts warranting a finding the defendant is a prior offender; 2) evidence must be introduced establishing sufficient facts pleaded to warrant a finding beyond a reasonable

doubt the defendant is a prior offender; and 3) the court must make findings of fact warranting a finding beyond a reasonable doubt the defendant is a prior offender.

Mo. Rev. Stat. § 558.021.1(1), (2). *All of these events must occur before the case is submitted to the jury.* Mo. Rev. Stat. § 558.021.2.

This did not occur at Mr. Teer's trial. Although the court received State's Exhibit 26 – the conviction record – into evidence before the jurors began deliberating, it did not allow the amended information to be filed until after the jury began deliberating, and did not make findings of fact until after the amended information had been filed (Tr. 691, 742, 776). Thus, the trial court erred in allowing the state to file the amended information after the jurors began deliberating.

At trial, the state cited cases to support the amended information's late filing, but none of the cases actually supported the amended information's being filed after the jurors began deliberating. Several cases involved amended charging documents, but the amendments did not involve prior convictions increasing sentence length: State v. Ruth, 830 S.W.2d 24 (Mo. App. S.D. 1992); State v. Carter, 771 S.W.2d 844 (Mo. App. W.D. 1989); State v. Hughes, 702 S.W.2d 864 (Mo. App. W.D. 1985); State v. Cooper, 660 S.W.2d 184 (Mo. App. W.D. 1983); State v. Mason, 650 S.W.2d 15 (Mo. App. E.D. 1983); and State v. Wilson, 544 S.W.2d 859 (Mo. App. K.C.D. 1976). Because the changes did not increase sentence length, they are governed by Mo. Rev. Stat. § 545.290 and its analogous rule, Missouri Supreme Court Rule 23.08, which allow informations to be

amended or substituted any time before verdict. Nor are the facts in State v. Miller similar because in Miller, Missouri law was changed between the alleged offense date and trial to allow judge sentencing for persistent misdemeanor offenders. 851 S.W.2d 715 (Mo. App. E.D. 1993).

Two of the cases the state cited actually did concern prior convictions increasing punishment: State v. Moton, 733 S.W.2d 449 (Mo. App. E.D. 1986) and State v. Bohlen, 670 S.W.2d 119 (Mo. App. E.D. 1984). But Moton did not support the information's being amended after the jury began deliberating because in Moton the information was amended before trial. 733 S.W.2d at 451. Bohlen would not have supported what the trial court did, either, because in Bohlen this Court remanded because it could find nothing in the record showing that the state proved that Mr. Bohlen had prior convictions. 670 S.W.2d at 123. Thus, none of the state's cited cases supported the state's filing its amended information after the jurors started deliberating, and the trial court erred in allowing the state to file an amended information after the jurors began deliberating.

Mr. Teer was prejudiced by the court's error and should therefore be granted relief. Wood, 662 S.W.2d at 878. Had the court found Mr. Teer to be a prior offender when he was not, and because of that not submit the issue of punishment to the jury, the prejudice would be clear, as would the remedy. The remedy is to remand for a jury's sentencing recommendation. State v. Emery, 95 S.W.3d 98 (Mo. banc 2003). A remand was necessary to find out the jurors' sentencing assessment because they did not have the opportunity at trial to assess a

sentence. But that is not the case here, where the jury was instructed on the punishment ranges and did assess a punishment for each conviction (L.F. 71-72, 74-75, 77-78, 80-81, 83-84, 94-98).

Missouri law is not as clear on what the remedy should be where a defendant is erroneously found a prior offender and the jurors are asked to assess punishment. Before September 30, 1981, Missouri law required a court to hold a hearing to determine second-offender status after a defendant had been found guilty. State v. Chunn, 636 S.W.2d 166, 167 (Mo. App. S.D. 1982); Mo. Rev. Stat. § 558.021 (1978). The jurors were always asked to assess punishment because the defendant would not be classified a second offender until after the jurors had decided guilt. Chunn, 636 S.W.2d at 167. Even after Missouri statutes were changed so that the prior-offender hearing happened before a case was submitted to the jury, jurors were still asked to assess punishment on every class C and D felony because the Missouri Approved Instructions required it. State v. Wood, 662 S.W.2d at 878; MAI-CR2d 2.60. The instructions had not been updated to synchronize with the new statutory scheme and still required jurors to be instructed on class C and D felonies' punishment ranges. State v. Wood, 662 S.W.2d at 878; MAI-CR2d 2.60. Thus, where the jurors were asked to assess a punishment for a defendant who was later classified a second offender, the court was to treat the jurors' assessed punishment as "advisory" and "mere surplusage" under Mo. Rev. Stat. § 557.036.5. State v. Hunter, 586 S.W.2d 345, 347 (Mo. banc 1979).

In Hunter, the Supreme Court held that appellant had failed to show that he was prejudiced by this procedure because – whether he was found to be a second offender before or after his case had been submitted to the jury – the jurors first determined that he was guilty, and then determined punishment. Id. Thus, the Court ruled, the jury’s deciding punishment would not “hinder or bias” its deciding guilt. Id. One judge dissented because he knew from experience that jurors do not always decide guilt without considering punishment: “Juries have the power to compromise in arriving at a total verdict and a verdict in a criminal case is final whether or not there are compromises in the jury room.” 586 S.W.2d at 349. Thus, according to the dissent, the recommended punishment should be as final as the verdict.

The Wood Court agreed with the Hunter dissent because “the issues of guilt and punishment are often interrelated in jury compromises.” 662 S.W.2d at 878. The Wood Court felt that the jurors had reached a compromise verdict because – although the jurors had found the defendant guilty of a felony after also having been instructed on a lesser-included misdemeanor – they had recommended the minimum punishment. Id. But the Court felt “constrained” by Hunter and decided that the defendant had not been prejudiced where he had been classified a prior offender but the jury was later asked to assess punishment, which the trial court disregarded when imposing punishment. 662 S.W.2d at 878.

Even where the court was to decide prior-offender classification before the case was submitted to the jury, but erroneously decided it afterwards so that the

jurors were asked to assess punishment, the court was still to treat the jurors' assessed punishment as "advisory" and "mere surplusage" under Mo. Rev. Stat. § 557.036.5. State v. Bryant, 658 S.W.2d 935, 939 (Mo. App. W.D. 1983); Chunn, 636 S.W.2d at 167-68. Something similar seems to have occurred at Mr. Teer's trial (Tr. 552).

This Court should not follow the Bryant and Chunn. The enhanced-sentencing issue was reviewed in both cases for plain error because the defense failed to object to the court's untimely finding the defendant a persistent offender. 658 S.W.2d at 939; 636 S.W.2d at 167. Both courts found that no manifest injustice or miscarriage of justice had occurred. 658 S.W.2d at 939; 636 S.W.2d at 167. That should not be the standard here because the defense objected at every opportunity: when the state first said it would be requesting leave to file an amended information charging Mr. Teer as a prior offender, again when the state requested leave to file the amended information, and finally when the court granted the state leave to file the amended information and the state did, after the jury had retired to deliberate (Tr. 526, 530-52, 742). The defense also raised the issue in the Motion for New Trial (L.F. 100).

Because the defense objected to Mr. Teer's erroneously being classified a prior offender at every opportunity, this Court should decide Mr. Teer's case as the Wood court wished it could have. Just as the jurors in Wood, the jurors in Mr. Teer's case compromised on their verdicts; they were given a lesser-included offense to consider; they found Mr. Teer guilty of the felonies, but assessed

punishments very close to the minimums (L.F. 85-86, 94-98). As the Wood Court put it, “the issues of guilt and punishment [were] interrelated” at Mr. Teer’s trial. 662 S.W.2d at 878. Mr. Teer was prejudiced because the court’s error deprived him of the jurors’ right to compromise on their verdicts and assessed punishments.

Mr. Teer was further prejudiced because the jurors – and Mr. Teer for that matter – were led to believe they had the power to sentence Mr. Teer. State v. Hunter, 586 S.W.2d at 350. Most prejudicial to Mr. Teer himself, he was prejudiced because the court disregarded Mo. Rev. Stat. § 557.036.3 – which limits a defendant’s sentence to no longer than the jurors recommend – and sentenced Mr. Teer to a total incarceration *five times longer* than the longest possible length recommended by the judge’s fellow St. Charles County residents. Thus, Mr. Teer was prejudiced by the court’s allowing the state to file an amended information charging him as a prior offender.

Because Mr. Teer was prejudiced by the trial court’s error, he is entitled to relief. Because the jurors were led to believe that the court had to follow their sentence assessments, this Court needs to order the relief that will affirm the jurors’ belief: vacate the sentences given by the trial court and remand this cause for sentencing not to exceed the sentences assessed by the jurors. State v. Hunter, 586 S.W.2d at 350.

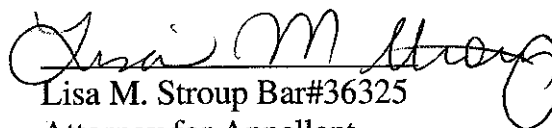
For the above reasons, the trial court erred in granting the state’s motion to file an amended information charging Mr. Teer as a prior offender after the jurors had begun deliberations. Mr. Teer was deprived of his rights to due process, equal

protection of law, trial by jury, fair and reliable sentencing, and freedom from cruel and unusual punishment, under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, and to Article I, Mo. Const., Art. I, §§ 2, 10, 18(a), and 21 of the Missouri Constitution. Because of the court's error, this Court needs to reverse the sentences of the trial court and remand for a resentencing following the jury's recommendation, or in the alternative, reverse the sentences and judgment of the trial court and remand for a new trial.

CONCLUSION

WHEREFORE, for the reasons set forth, Appellant Michael Jay Teer requests this Honorable Court reverse the sentences of the trial court and remand for a resentencing following the jury's recommendation, or in the alternative, reverse the sentences and judgment of the trial court and remand for a new trial.

Respectfully submitted,



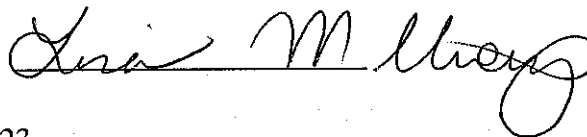
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CERTIFICATE OF SERVICE

A copy of the foregoing Appellant's Statement, Brief, and Argument was mailed electronically to the Missouri Court of Appeals, Eastern District, One Post Office Square, 815 Olive St., St. Louis, MO 63101 and mailed electronically and by U.S. Mail, postage prepaid to the Attorney General, State of Missouri, and P.O. Box 899, Jefferson City, MO 65102 on this 1st day of February, 2008.

Counsel also certifies that

- 1) The brief complies with the limitations contained in Rule 84.06(b) because it contains 4,031 words, excluding the cover, index, table of authorities, certificate, signature block, and appendix; and
- 2) This has been scanned for viruses using Virus Scan Enterprise + Anti-Spyware Module 8.5.0i, most recently updated on February 1, 2008, and is virus-free.



**IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT**

**STATE OF MISSOURI,
Respondent,**

vs.

**MICHAEL JAY TEER,
Appellant.**

)
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)
)
) **Appeal No. ED89409**
)
)
)

**APPEAL TO THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT
FROM THE CIRCUIT COURT OF ST. CHARLES COUNTY
STATE OF MISSOURI
THE HONORABLE WILLIAM T. LOHMAR, TRIAL JUDGE
THE HONORABLE TED C. HOUSE, RESENTENCING JUDGE**

APPENDIX

SENTENCE AND JUDGMENT A1-A3



IN THE CIRCUIT COURT OF ST. CHARLES COUNTY, MISSOURI

FILE

FEB 23 2007

Circuit Clerk
ST. CHARLES COUNTY

CIRCUIT DIV TED HOUSE		CASE ID 11R019401592-01	
		OCN #	
STATE OF MISSOURI vs MICHAEL JAY TEER DEFENDANT		PROSECUTING ATTORNEY/BAR NO. JOHN DeVOUTON 23200	
D.O.B.	05-JAN-1971	SSN	491-92-1414
PRESENTENCE ORDERED		PRESENTENCE WAIVED	
		DATE OF OFFENSE FOR EACH COUNT 07-04-1994	

SENTENCE AND JUDGEMENT AND COMMITMENT

THE COURT FINDS BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS A:

<input type="checkbox"/> PERSISTENT SEXUAL OFFENDER (558.018 RSMo.)	<input type="checkbox"/> PRIOR OFFENDER (558.016 RSMo.)	<input type="checkbox"/> DANGEROUS OFFENDER (558.016 RSMo.)
<input type="checkbox"/> PRIOR DRUG OFFENDER (195.295 & 195.296 RSMo.)	<input type="checkbox"/> PERSISTENT OFFENDER (558.016 RSMo.)	<input checked="" type="checkbox"/> NOT APPLICABLE
<input type="checkbox"/> PERSISTENT DRUG OFFENDER (195.195 RSMo.)	<input type="checkbox"/> CLASS X OFFENDER (558.019 RSMo.)	<input type="checkbox"/> CHRONIC OFFENDER (577.010, 577.023.1(2) RSMo.)

ON (DATE) **02-23-2007** THE COURT:

☒ INFORMS THE DEFENDANT OF VERDICT/FINDING, ASKS THE DEFENDANT WHETHER (S)HE HAS ANYTHING TO SAY WHY JUDGMENT SHOULD NOT BE PRONOUNCED, AND FINDS THAT NO SUFFICIENT CAUSE TO THE CONTRARY HAS BEEN SHOWN OR APPEARS TO THE COURT.

☒ DEFENDANT HAS BEEN ADVISED OF HIS/HER RIGHTS UNDER RULE 24.035/29.15 AND THE COURT HAS FOUND:

☐ PROBABLE CAUSE ☒ NO PROBABLE CAUSE

TO BELIEVE THE DEFENDANT HAS RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL.

COUNT NO. 1 CHARGE VEHICULAR MANSLAUGHTER <input type="checkbox"/> MISDEMEANOR <input checked="" type="checkbox"/> FELONY CLASS: C ON THE ABOVE COUNT, IT IS ADJUDGED THAT THE DEFENDANT HAS BEEN: <input type="checkbox"/> FOUND GUILTY UPON A PLEA OF GUILTY <input checked="" type="checkbox"/> FOUND GUILTY BY JURY/COURT <input type="checkbox"/> DISMISSED/NOLLE PROS/FOUND NOT GUILTY ON THIS DATE	COUNT NO. 2 CHARGE VEHICULAR MANSLAUGHTER <input type="checkbox"/> MISDEMEANOR <input checked="" type="checkbox"/> FELONY CLASS: C ON THE ABOVE COUNT, IT IS ADJUDGED THAT THE DEFENDANT HAS BEEN: <input type="checkbox"/> FOUND GUILTY UPON A PLEA OF GUILTY <input checked="" type="checkbox"/> FOUND GUILTY BY JURY/COURT <input type="checkbox"/> DISMISSED/NOLLE PROS/FOUND NOT GUILTY ON THIS DATE	COUNT NO. 3 CHARGE VEHICULAR MANSLAUGHTER <input type="checkbox"/> MISDEMEANOR <input checked="" type="checkbox"/> FELONY CLASS: C ON THE ABOVE COUNT, IT IS ADJUDGED THAT THE DEFENDANT HAS BEEN: <input type="checkbox"/> FOUND GUILTY UPON A PLEA OF GUILTY <input checked="" type="checkbox"/> FOUND GUILTY BY JURY/COURT <input type="checkbox"/> DISMISSED/NOLLE PROS/FOUND NOT GUILTY ON THIS DATE
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☒ ON COUNT 1, THE COURT SENTENCES AND COMMITS THE DEFENDANT TO THE CUSTODY OF **MDOC** FOR A PERIOD OF **4 YEARS** SENTENCE TO BE SERVED ☐ CONCURRENT ☒ CONSECUTIVE WITH **CONS/ ALL COUNTS**

☐ SUSPENDS EXECUTION OF SENTENCE. DEFENDANT IS PLACED ON PROBATION FOR A PERIOD OF UNDER THE SUPERVISION OF BASED ON THE CONDITIONS SET FORTH IN THE ORDER OF PROBATION.

☐ SUSPENDS IMPOSITION OF SENTENCE. DEFENDANT IS PLACED ON PROBATION FOR A PERIOD OF UNDER THE SUPERVISION OF BASED ON THE CONDITIONS SET FORTH IN THE ORDER OF PROBATION.

☐ FINES THE DEFENDANT \$ THE COURT STAYS \$ WITH THE REMAINDER DUE BY (DATE)

☒ ON COUNT 2, THE COURT SENTENCES AND COMMITS THE DEFENDANT TO THE CUSTODY OF **MDOC** FOR A PERIOD OF **4 YEARS** SENTENCE TO BE SERVED ☐ CONCURRENT ☒ CONSECUTIVE WITH **CONS W/ ALL COUNTS**

☐ SUSPENDS EXECUTION OF SENTENCE. DEFENDANT IS PLACED ON PROBATION FOR A PERIOD OF UNDER THE SUPERVISION OF BASED ON THE CONDITIONS SET FORTH IN THE ORDER OF PROBATION.

☐ SUSPENDS IMPOSITION OF SENTENCE. DEFENDANT IS PLACED ON PROBATION FOR A PERIOD OF UNDER THE SUPERVISION OF BASED ON THE CONDITIONS SET FORTH IN THE ORDER OF PROBATION.

☐ FINES THE DEFENDANT \$ THE COURT STAYS \$ WITH THE REMAINDER DUE BY (DATE)

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WHITE: COURT YELLOW: SHERIFF'S PINK: PROSECUTOR GOLD: PROBATION & PAROLE

A1

THE COURT FURTHER ORDERS:

- ☐ THE CLERK TO DELIVER A CELESTIAL COPY OF THE JUDGMENT AND COMMITMENT TO THE SHERIFF.
- ☐ THE SHERIFF AND/OR THE DEPARTMENT OF CORRECTIONS DIRECTOR, TO AUTHORIZE ONE ADDITIONAL OFFICER/GUARD TO TRANSPORT DEFENDANT TO DIVISION OF ADULT INSTITUTIONS.
- ☐ THAT JUDGMENT IS ENTERED IN FAVOR OF THE STATE OF MISSOURI AND AGAINST THE DEFENDANT FOR THE SUM OF \$ 46.00 ☐ \$7.50 CVC FEE
- ☐ JUDGMENT FOR THE STATE OF MISSOURI AND AGAINST THE DEFENDANT FOR APPOINTED COUNSEL SERVICES IN THE SUM OF \$
- ☐ COSTS TAXED AGAINST DEFENDANT.
- ☒ COSTS WAIVED
- ☐ THE FOLLOWING SPECIAL CONDITIONS OF PROBATION:
- ☐ OTHER, SEE ATTACHED.

- ☐ ss. 217.78. RSMo. POST CONVICTION NON-INSTITUTIONAL DRUG TREATMENT PROGRAM.
- ☐ ss. 217.785 RSMo. POST CONVICTION INSTITUTIONAL DRUG TREATMENT.
- ☐ ss. 217.362 RSMo. COURT ORDERED LONG TERM SUBSTANCE ABUSE PROGRAM.
- ☐ ss. 217.378 RSMo. REGIMENTED DISCIPLINE PROGRAM
- ☐ ss. 217.777 RSMo. COMMUNITY CORRECTIONS PROGRAM FOR INTENSIVE SUPERVISION.
- ☐ ss. 559.115 RSMo. INSTITUTIONAL TREATMENT PROGRAM DEPARTMENT OF CORRECTIONS SHALL PROVIDE A REPORT AND RECOMMENDATION WHETHER PROBATION SHOULD BE GRANTED.
- ☐ ss. 559.115 RSMo. SEXUAL OFFENDER ASSESSMENT UNIT DEPARTMENT OF CORRECTIONS SHALL PROVIDE A REPORT AND RECOMMENDATION WHETHER PROBATION SHOULD BE GRANTED.
- ☐ ss. 559.115 RSMo. SHOCK INCARCERATION PROGRAM DEPARTMENT OF CORRECTIONS SHALL PROVIDE A REPORT AND RECOMMENDATION WHETHER PROBATION SHOULD BE GRANTED.
- ☐ ss. 559.115 RSMo. GENERAL POPULATION DEPARTMENT OF CORRECTIONS SHALL PROVIDE A REPORT AND RECOMMENDATION WHETHER PROBATION SHOULD BE GRANTED.

(SEAL OF COURT)

CASE HEARD BY: JUDGE

TED HOUSE

I CERTIFY THAT THE ABOVE IS A TRUE COPY OF THE ORIGINAL JUDGMENT AND SENTENCE OF THE COURT IN THE ABOVE CAUSE, AS IT APPEARS ON RECORD IN MY OFFICE.

ISSUED ON

DATE

DEPUTY CLERK

CERTIFICATE OF TRUE COPY

I, Clerk of Circuit Court, within and for the County of St. Charles, State of Missouri, hereby certify that the foregoing is a true copy of an original document now on file and recorded in my office.

Witness my hand and Seal of said Court this 23 day of Feb 2007

[Signature]
[Signature]