

**IN THE SUPREME COURT OF MISSOURI**

Case No. SC96796

**ALOK KUMAR ROHRA,**  
Appellant/Defendant,

v.

**STATE OF MISSOURI,**  
Respondent/Plaintiff.

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On Transfer to the Missouri Supreme Court  
From the Missouri Court of Appeals, Eastern District  
There on Appeal  
From the 22nd Judicial Circuit Court, St. Louis City, Missouri, Division 12  
Honorable Michael Francis Stelzer, Presiding

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**SUBSTITUTE BRIEF OF APPELLANT/DEFENDANT ALOK KUMAR ROHRA**

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## STATEMENT OF JURISDICTION

This appeal was transferred to this Court pursuant to Mo. Sup. Ct. R. 83.02, after opinion by the Eastern District Court of Appeals, by a majority of the participating judges on their own motion. Jurisdiction is vested in this Court by Missouri Constitution Article V, Section 10.

Appellant was convicted in the circuit court of the City of St. Louis, Missouri, pursuant to a guilty plea, on one count of unlawful possession of a firearm, § 571.070, RSMo; one count of possession of marijuana, and one count of possession of drug paraphernalia. He was sentenced to four years' imprisonment on the firearm conviction and two years' imprisonment on each of the other two offenses, but the court suspended execution of all sentences and sentenced Appellant to a total of two years' probation for all three offenses.

Prior to his guilty plea, Appellant moved to dismiss the charge for unlawful possession of a firearm, § 571.070, RSMo, on the ground that he was not legally prohibited from possessing a firearm under that statute. He argued that his 2013 guilty pleas to possession of a controlled dangerous substance and possession with intent to distribute in the District Court of Canadian County, Oklahoma do not constitute felony convictions for purposes of § 571.070.1, RSMo, because he was given a deferred sentencing pursuant to 63 Okl. St. § 2-410(A). Appellant argued that deferred sentencings are equivalent to a suspended imposition of sentence in Missouri, which do not constitute a conviction under Missouri law. The trial court denied Appellant's motion to dismiss and a subsequent motion to quash the indictment, and Appellant ultimately pleaded guilty

to the offenses charged. Appellant now appeals the denial of his motion to dismiss the charge for unlawful possession of a firearm, § 571.070, RSMo, and his conviction on that count on the basis that his charge failed to allege an essential element and was insufficient to state an offense.

### **STATEMENT OF FACTS**

On December 1, 2016, Alok Kumar Rohra (“Appellant” or “Rohra”) pleaded guilty to unlawful possession of a firearm (Count I), a class C felony proscribed by § 571.070, RSMo; possession of marijuana (Count II), a class A misdemeanor, and possession of drug paraphernalia (Count III), a class A misdemeanor. (Transcript [“TR”] 11.) Also on December 1, 2016, the circuit court of the City of St. Louis sentenced Rohra to imprisonment in the custody of the Missouri Department of Corrections for a term of four (4) years on Count I, suspended execution of that sentence, and placed Rohra on probation for a period of two (2) years under the supervision of the Board of Probation. Rohra was further sentenced to one (1) year of jail time on each of the misdemeanors (Count II and Count III), and the execution of those sentences was also suspended. Rohra was sentenced to two (2) years of unsupervised probation on each misdemeanor to run concurrently with the probationary sentence on Count I. (Legal File [“LF”] 47-50, A1-A4; TR 15-16.)

This case arose from an incident on September 10, 2015, in which Rohra was stopped by St. Louis Metropolitan Police Department officers for a traffic violation. At the time he was stopped, Rohra had already parked his vehicle and was walking toward a store. The officers returned to the vehicle with Rohra and at that time smelled marijuana

and observed a glass pipe inside the vehicle. Rohra was also found to be in possession of a firearm and was arrested. (TR 7-8.)

The State filed a complaint on September 11, 2015, which included the aforementioned charges. (LF 11.) The complaint charged Rohra with unlawful possession of a firearm under Missouri's felon in possession statute, § 571.070, RSMo. (*Id.*) According to the State, this count was based on Rohra being previously convicted of the felony of possession of a controlled substance in the circuit court of St. Louis County. (*Id.*)

On September 29, 2015, trial court defense counsel for Rohra filed a Motion to Dismiss, arguing that the case should be dismissed because the prior felony conviction it relied on was inaccurate and was the result of a clerical error. (LF 13.) Rohra had actually pleaded guilty to misdemeanor possession of marijuana in that case, Cause Number 13SL-CR08594, so it was not a felony conviction that could support a charge of unlawful possession of a firearm under § 571.070, RSMo. (*Id.*) On October 1, 2015, a hearing on the Motion to Dismiss was held, and the State provided the trial court and defense counsel an "amended complaint," charging Rohra with unlawful possession of a firearm predicated on purported felony convictions arising out of a case in Canadian County, Oklahoma. (LF 23.) At the time of the hearing, through counsel, Rohra orally amended his Motion to Dismiss, stating that the case in Oklahoma did not result in a felony conviction because the sentence given to Rohra was equivalent to a Suspended Imposition of Sentence ("SIS") in Missouri, which is not a felony conviction under Missouri law. (LF 24, 26.)

In its written response to Rohra's amended Motion to Dismiss, the State argued that "[a]pplying 570.070.1 RSMo. and Oklahoma's Uniform Controlled Dangerous Substances act make it clear that it was unlawful for [Rohra] to possess a firearm in the State of Missouri." (LF 25.) Additionally, the State argued that "it is the status of [Rohra's] felony conviction in the State of Oklahoma that is relevant for purposes of Missouri's felon in possession statute." (LF 27.) The State further asserted that "[Rohra] has convictions under Oklahoma law of crimes that would be felonies under the laws of the State of Missouri." (*Id.*)

On or about February 4, 2016, the trial court entered its order denying Rohra's Motion to Dismiss. (LF 39-42, A12-A15.) The Order acknowledged that Rohra challenged that his 2013 guilty pleas to possession of a controlled dangerous substance and possession with intent to distribute in the District Court of Canadian County, Oklahoma do not constitute convictions for purposes of § 571.070.1, RSMo, because he was given a deferred sentencing pursuant to 63 Okl. St. § 2-410(A). (*Id.*) Further, the Order recognized Rohra's contention that such deferred sentencings are equivalent to a suspended imposition of sentence in Missouri, which do not constitute a conviction under Missouri law. (*Id.*) Interpreting § 571.070, RSMo, the trial court "believe[d] the second clause of [the] section means that where a person has been 'convicted' in another state of a crime that would be a felony in Missouri, that person may not possess a firearm." (LF 40, A13.) The trial court cited to the relevant portions of Oklahoma law under 63 Okl. St. §§ 2-410(A) and (B). (*Id.*) Moreover, the trial court reviewed an Oklahoma case, *Platt v. State*, 2008 OK CR 20, 188 P.3d 196 (Okla. Crim. App. 2008), where a defendant had



received a deferred sentencing but had not completed it when he was later charged with unlawful possession of a firearm in Oklahoma. (LF 41, A14.) The trial court noted that the Oklahoma court of appeals “concluded the statute means that earlier pleas of guilty, of defendants who are within the period of a sentencing deferral, constitute convictions of the offense for the purpose of any criminal statute under which the existence of a prior conviction is relevant.” (*Id.*) For purposes of the Order, the trial court found that “[s]ince [Appellant] has been found guilty under Oklahoma law of a crime that would be a felony if committed in Missouri, and the guilty plea constituted a ‘conviction’ under Oklahoma law at the time he allegedly possessed the firearm, [Appellant] may be charged for a violation of § 570.010.1(1).” (LF 41-42, A14-A15.)

On June 27, 2016, Appellant filed a Motion to Quash the Indictment, which was denied by Judge Michael Mullen on August 22, 2016. (LF 44-46.) The Indictment, superseding the Amended Complaint, had been filed on December 15, 2015—prior to the trial court’s Order denying Appellant’s Motion to Dismiss. (LF 37-38.)

Appellant appealed, challenging the improper denial of his motion to dismiss and of his motion to quash the indictment because the indictment failed to state an essential element of the charge of unlawful possession of a firearm in violation of § 571.070, RSMo., and that, therefore, his conviction for unlawful possession of a firearm should be vacated and the charge should be dismissed. A panel of the Court of Appeals found that “as a general rule, neither a Missouri SIS nor an Oklahoma deferral [of sentence] results in a conviction,” *id.* at 5, and that Oklahoma’s “specific statutory exception applicable to drug offenses,” found in Okla. Stat. Ann. Title 63, §2-410(B), did not operate to make

Appellant’s prior drug offense in Oklahoma a “conviction” under Missouri law. *State v. Rohra*, No. ED105084, 6 (Mo. App. E.D., Nov. 21, 2017). Finding no Missouri authority standing for the proposition that an Oklahoma deferred sentence constitutes a “conviction” in Missouri, and noting that it was bound to “enforce Missouri statutes as written and in accordance with Missouri Supreme Court precedent,” the appellate court found that Appellant’s prior drug offense in Oklahoma, for which he received deferred sentencing, was not a “conviction” under Missouri law and thus did not provide the State with a factual basis upon which to charge Appellant with unlawful possession of a weapon in violation of § 571.070(1), RSMo. *Id.* at 8-9 (also noting that the rule of lenity compelled the same result). Upon issuing its opinion reversing and vacating Appellant’s conviction, the Court of Appeals, upon its own motion and because of the “general interest and importance of the question presented,” transferred this matter to the Supreme Court pursuant to Rule 83.02. *Id.* at 9.

**POINT RELIED ON**

- I. The trial court erred in denying Appellant’s motions to dismiss and to quash the charge against him for violation of § 571.070, RSMo. on the ground that it failed to allege an essential element, in that the trial court erroneously ruled that Appellant was “convicted” in Oklahoma of a crime that would be a felony if committed in Missouri.**

*Akins v. Dir. of Revenue*, 303 S.W.3d 563 (Mo. banc 2010)

*Yale v. City of Independence*, 846 S.W.2d 193 (Mo. banc 1993)

*State v. Rodgers*, 396 S.W.3d 398 (Mo. App. 2013)

*Fainter v. State*, 174 S.W.3d 718 (Mo. App. 2005)

§ 571.070, RSMo. (2015)

§ 557.011, RSMo. (1986)

Okla. Stat. Ann. tit. 63, § 2-410(A)-(B)

## ARGUMENT

- I. The trial court erred in denying Appellant’s motions to dismiss and quash the charge against him for violation of § 571.070, RSMo. on the ground that it failed to allege an essential element, in that the trial court erroneously ruled that Appellant was “convicted” in Oklahoma of a crime that would be a felony if committed in Missouri.**

*Preservation of Error and Standard of Review:*

In this instance, the error complained of by Appellant—a defect in the indictment that charged him with a violation of § 571.070, RSMo.—may be raised for the first time on appeal. *State v. Sparks*, 916 S.W.2d 234, 237 (Mo. App. 1995), citing *State v. Parkhurst*, 845 S.W.2d 31, 35 (Mo. banc 1992). Nevertheless, this point of error was also preserved for appellate review by Appellant’s motions to dismiss the amended complaint, and to quash the indictment, respectively, charging him with violation of § 571.070, RSMo. By those motions, Appellant asserted that the amended complaint failed to allege a required element of the offense because his previous guilty pleas in Oklahoma did not constitute felony convictions under § 571.070, RSMo. The trial court ruled against Appellant’s motion to dismiss in a detailed order. It later summarily ruled against Appellant’s motion to quash the indictment, which included the same charge that was presented in the amended complaint. (LF 39-42, A12-A15; 44-45.) Having litigated his challenges to the sufficiency of the charge for violation of § 571.070, RSMo., Appellant pleaded guilty to the charges in the indictment.

“[W]hether an information fails to state an offense is a question of law, which [the courts] review de novo. *State v. Metzinger*, 456 S.W.3d 84, 89 (Mo. App. 2015) (citing *State v. Rousseau*, 34 S.W.3d 254, 259 (Mo. App. 2000)). Even where the issue is raised for the first time on appeal, an information may be deemed insufficient if “(1) it does not by any reasonable construction charge the offense to which the defendant pled guilty and (2) the defendant demonstrates actual prejudice as a result of the insufficiency.” *Sparks*, 916 S.W.2d at 237 (citing *Parkhurst*, 845 S.W.2d 31). Where “the facts are uncontested and the only question at issue is the interpretation of a statute, review is de novo.” *Holtcamp v. State*, 259 S.W.3d 537, 539 (Mo. banc 2008).

*Discussion:*

Appellant’s motion to dismiss the amended complaint, and his subsequent motion to quash the indictment charging the same offense, both challenged the sufficiency of the charging document. The indictment in this case was insufficient because it lacked an essential element—a predicate felony offense. The language of § 571.070, RSMo. provides, in pertinent part, as follows:

A person commits the crime of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and: (1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony.

RSMo. § 571.070.1(1). “When interpreting a statute, the primary goal is to give effect to legislative intent as reflected in the plain language of the statute.” *Morse v. Dir. of Revenue*, 353 S.W.3d 643, 645 (Mo. 2011) (citing *State v. Salazar*, 236 S.W.3d 644, 646 (Mo. banc 2007)). “If statutory language is not defined expressly, it is given its plain and ordinary meaning, as typically found in the dictionary.” *Id.* (citing *Derousse v. State Farm Mut. Auto. Ins. Co.*, 298 S.W.3d 891, 895 (Mo. banc 2009)).

The word “convicted” is not defined in § 571.070, RSMo. “[T]he word ‘convict’ means ‘to find or declare guilty of an offense or crime by the verdict or decision of a court or other authority....’” *Akins v. Dir. of Revenue*, 303 S.W.3d 563, 565 (Mo. banc 2010) (quoting WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE 499 (3d ed.1993)). “The definitive concept expressed in the words ‘conviction’ and ‘convict’ is that there has been a judicial determination that the defendant is guilty of an offense or crime.” *Id.*

Okla. Stat. Ann. tit. 63, § 2-410(A) provides, in pertinent part, that:

Whenever any person who has not previously been convicted of any offense under this act or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty or nolo contendere to or is found guilty of a violation of the Uniform Controlled Dangerous Substances Act, the court may, unless otherwise prohibited by law, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require....

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

*Id.* The provisions of Okla. Stat. Ann. tit. 63, § 2-410(A) are fundamentally similar to those of Section 557.011, which allow a Missouri court, upon a finding of guilt, to “[s]uspend the imposition of sentence, with or without placing the person on probation.” § 557.011, RSMo.

In Missouri, “[i]t is well-settled that a suspended imposition of sentence is not a final judgment.” *Yale v. City of Independence*, 846 S.W.2d 193, 194 (Mo. banc 1993). “The word ‘conviction,’ standing alone, does not include the disposition of a ‘suspended imposition of sentence’ in legislative enactments where it may be used as a predicate for punitive action in a collateral proceeding.” *Id.* In reaching this conclusion, the Missouri Supreme court reasoned that “[i]n subsections (3) and (4) of [Section 557.011], delineating the two sentencing alternatives in which probation can be awarded, the disposition of suspended execution of sentence is distinguished from suspended imposition of sentence solely by the fact that a sentence is imposed in one but not the other.” *Id.* “The obvious legislative purpose of the sentencing alternative of suspended imposition of sentence *is to allow a defendant to avoid the stigma of a lifetime conviction*

and the punitive collateral consequences that follow.” *Id.* (emphasis added). “[W]ith suspended imposition of sentence, trial judges have a tool for handling offenders worthy of the most lenient treatment.” *Id.* “[T]he legislature would have provided neither for a disposition of suspended imposition of sentence, nor for closure of the records of that disposition, *had it not the purpose to allow a defendant to avoid a permanent conviction.*” *Id.* at 196 (emphasis added).

The opinion in *Yale* clearly establishes that the legislature in Missouri is conscious of what constitutes a “conviction” in the State of Missouri, and chose not to apply automatic collateral consequences to those serving a suspended imposition of sentence. § 2-410(A) serves an equivalent purpose as a suspended imposition of sentence under Missouri law. Section 571.070.1(1), RSMo, does not define the term “conviction,” and the term is thus ambiguous as to whether the requisite finding of a “conviction” can be satisfied under the deferred sentencing statutes of a different state. § 2-410(A) seems to serve the same purpose as a suspended imposition of sentence under Missouri law (i.e., to dismiss charges without court adjudication of guilt and without a conviction).

Okla. Stat. Ann. tit. 63, § 2-410(B), provides in pertinent part, that:

...any plea of guilty or nolo contendere or finding of guilt to a violation of the Uniform Controlled Dangerous Substances Act shall constitute a conviction of the offense for the purpose of the Uniform Controlled Dangerous Substances Act or any other criminal statute under which the existence of a prior conviction is relevant for a period of ten (10) years following the completion of any court imposed probationary term...



*Id.* The court in *Yale* itself noted that “the legislature, has, in fact, enacted a number of exceptions to the general rule that punitive collateral consequences do not attach when imposition of sentence is suspended,” while still holding that a suspended imposition of sentence is not a “conviction.” *Yale*, 846 S.W.2d at 195 (referencing §§ 558.016.1, 491.050, and 577.051.1, RSMo). There is no such exception to this general rule under § 571.070, RSMo, Missouri’s felon in possession statute, which merely uses the word “conviction.”

Section 571.070, RSMo, applies if the Appellant “has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony.” RSMo. § 571.070.1(1). “If statutory language is subject to more than one reasonable interpretation, then the statute is ambiguous.” *State v. Liberty*, 370 S.W.3d 537, 548 (Mo. banc 2012) (quoting *State v. Graham*, 204 S.W.3d 655, 656 (Mo. banc 2006)). This statute is ambiguous as to what state’s law—Missouri’s or the foreign state’s—controls on the question of whether the Appellant has been “convicted” of a crime that would trigger the statute’s application.

Other states have decided that their own laws determine whether a person in their jurisdiction has a prior felony conviction. For example, Kansas recently treated a felonious possession defendant who had a Missouri SIS as having a prior “conviction” under Kansas law, which defined “conviction” as including “a judgment of guilty entered upon a plea of guilty.” *State v. Evans*, 51 Kan. App. 2d 168, 172 (Kan. App. 2015) (quoting K.S.A.2013 Supp. 21-5111(d)). Although it recognized that the defendant’s

Missouri SIS did not constitute a conviction in Missouri, the Kansas court of appeals noted that other states apply their own law to determine the effect of a foreign judgment, and concluded that “the Kansas Legislature is entitled to determine its own standards of what conduct constitutes a crime in Kansas.” *Id.* at 177. *See also State v. Menard*, 888 A.2d 57, 61 (R.I. 2005) (applying Rhode Island law to determine if defendant’s prior conviction in Arizona constituted a “crime of violence,” and concluding that it did); *State v. Moya*, 161 P.3d 862 (N.M. 2007) (finding that New Mexico law controlled whether a prior conviction for a Utah misdemeanor would be treated as a felony conviction, where the violation would constitute a felony in New Mexico); *Brown v. Handgun Permit Review Bd.*, 982 A.2d 830 (Md. App. 2009) (upholding denial of a gun permit under Maryland law because the out-of-state conviction would bar the issuance of a permit if the offense had been committed in Maryland). Missouri’s legislature is no less capable than the legislatures of other states to determine for itself what constitutes a “conviction” in Missouri. *See Yale*, 846 S.W.2d at 196; *see also, e.g., Carr v. Sheriff of Clay County*, 210 S.W.3d 414, 416-17 (Mo. App. 2006) (pointing out intentional legislative distinction between pleas and convictions in the context of concealed carry permits). Missouri’s legislature has determined that a guilty plea with a suspended imposition of sentence, like Appellant’s, is not a conviction.

Moreover, in light of the ambiguity of section 571.070, RSMo., the rule of lenity mandates the same result. “Where a criminal statute is ambiguous ...’the rule of lenity mandates that all ambiguity... be resolved in a defendant's favor.’” *State v. Rodgers*, 396 S.W.3d 398, 403 (Mo. App. 2013), quoting *Fainter v. State*, 174 S.W.3d 718, 721 (Mo.

App. 2005). In *Rodgers*, the court found that “fugitive from justice” as used in § 571.070.1(2), RSMo. was ambiguous. *Id.*; see also *State v. Chase*, 490 S.W.3d 771, 774 (Mo. App. 2016). “Under the rule of lenity, an ambiguous criminal statute is construed strictly against the government and liberally in favor of a defendant.” *Rodgers*, 396 S.W.3d at 403, citing *Fainter*, 174 S.W.3d at 721. “Any doubt as to whether the act charged and proved is embraced within the prohibition must be resolved in favor of the accused.” *Fainter*, 174 S.W.3d at 721 (quoting *State v. Jones*, 899 S.W.2d 126, 127 (Mo. Ct. App. 1995)). “The rule of lenity applies to interpretation of statutes only if, after seizing everything from which aid can be derived, we can make no more than a guess as to what the legislature intended.” *Id.* (citing *United States v. Wells*, 519 U.S. 482, 499 (1997)). Here, the rule of lenity must be applied to § 571.070.1(1), RSMo because the statute has not defined “convicted” and is ambiguous on whether the determination of whether a defendant has been “convicted” is a matter of Missouri or foreign law.

The trial court’s interpretation of § 571.070.1(1), relying on the foreign state for the definition of “convicted,” will lead to arbitrary and unjust results which were not intended by the legislature. Appellant would not be penalized for owning and bearing arms under § 571.070.1(1), RSMo, under Missouri law. Allowing certain out of state deferred sentencings to operate for the purposes of RSMo. Section 571.070.1(1), RSMo, will leads to discriminatory, unpredictable and arbitrary restrictions and significant encroachments against gun ownership against out-of-state deferred sentencings, which raises questions of strict scrutiny and the rules of statutory interpretation. See Mo. Const. art. I, § 23 (“Any restriction on [the right to keep and bear arms] shall be subject to strict

scrutiny and the state of Missouri shall be obligated to uphold these rights and shall under no circumstances decline to protect against their infringement.”).

Under the trial court’s interpretation of § 571.070.1(1), RSMo, people receiving deferred sentencing for first-time controlled substance felonies in different states throughout the country would potentially be treated differently under Missouri law depending on the vagaries of those states’ interpretations of their deferred sentencing/disposition statutes for purposes of § 571.070.1(1). A Missouri citizen receiving a suspended imposition of sentence would not be deemed to have received a conviction and would not be penalized under § 571.070.1(1)’s felony provisions for possessing firearms, but Missouri citizen who was sentenced under Oklahoma law, receiving a functionally equivalent deferred disposition, would be penalized under that statute for possessing a firearm.

There is no reason to conclude, or to suspect, that the Missouri legislature intended for someone in Appellant’s position to be considered a “convicted felon” for purposes of § 571.070.1(1). He received a disposition without an adjudication of guilt and deferred sentence in Oklahoma that would not be treated as a conviction in Missouri. The indictment in this case failed to state an offense, and the trial court’s interpretation of § 571.070.1(1) in this case is contrary to Missouri law and erroneous. Appellant has suffered prejudice as a result of this error because it caused him to be convicted of a crime he did not, and could not have, committed.

**CONCLUSION**

For the reasons stated above, Appellant's conviction and sentence for violation of § 571.070.1(1), RSMo. should be vacated and Appellant's case should be remanded to the trial court for entry of dismissal of that charge.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this 11<sup>th</sup> day of December, 2017, a true and accurate copy of this brief and all appendices thereto were sent by U.S. Mail, and by means of the court's electronic filing system, to: Gregory L. Barnes, Assistant Attorney General, P.O. Box 899, Jefferson City, MO 65102.

/s/ Joel J Schwartz

## RULE 84.06(c) CERTIFICATION

Undersigned counsel hereby certifies that this brief complies with all requirements of Rule 84.06(c), including that:

- (1) The information required by Rule 55.03 is contained herein;
- (2) The brief complies with the limitations of Rule 84.06(b); and
- (3) The brief contains a total of 4236 words.

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