OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,	)	ED106966
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of Lincoln County
v.	)	Case No. 16L6-CR00966-01
	)	
BRIAN K. GARRETT, JR.,	)	Honorable Thomas J. Frawley
	)	
Appellant.	)	Filed: April 14, 2020

Brian K. Garrett (Defendant) appeals the judgment entered upon his conviction by jury of three counts of second-degree assault, three counts of armed criminal action, one count of unlawful possession of a firearm, and one count of unlawful use of a weapon. He argues there was insufficient evidence in the record to support the three counts of second-degree assault (and thus the associated charges of armed criminal action) because he fired only one shot at a vehicle containing three passengers, thus the evidence was insufficient to establish he attempted to cause physical harm to all three passengers. He further argues that inconsistencies in the verdict form and the written judgment require reversal of his convictions.

MODIFIED IN PART; AFFIRMED AS MODIFIED.

Division Four Holds: There was sufficient evidence to support Defendant's convictions for three counts of second-degree assault and three counts of ACA, in that Defendant fired a gun toward a vehicle that he knew contained three passengers, purposeful conduct likely to cause physical injury to all three victims. We find no manifest injustice or miscarriage of justice resulted from the jury's accidental use of the incorrect verdict form for one count of ACA. However, the trial court's judgment does contain a clerical error, thus we modify the judgment to reflect Defendant's convictions in Counts I, III, and V for assault in the second degree, rather than assault in the first degree. We affirm the judgment as modified.

Opinion by: Gary M. Gaertner, Jr., J.
James M. Dowd, P.J., and Robin Ransom, J., concur.

Attorney for Appellant: Katharine P. Curry
Attorneys for Respondent: Eric S. Schmitt, Kristen S. Johnson