OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, ex rel., TERRY UPSHAW,	)	ED108935
Relator,	)	
v.	)	Writ of Mandamus Circuit Court of Jefferson County
HON. TROY A. CARDONA,	)	Cause Nos. 15JE-CR02881; 17JE-CR02214
Respondent.	)	Filed: August 4, 2020

Terry Upshaw (Relator) seeks a writ of mandamus compelling the Honorable Troy A. Cardona (Respondent) to release Relator from the Missouri Department of Corrections and place him on probation pursuant to Section 217.362, RSMo. Cum. Supp. 2018, in light of Relator's successful completion of the long-term substance abuse treatment program outlined therein.

PEREMPTORY WRIT OF MANDAMUS ISSUED.

Writ Division Two Holds: The evidence on the record is insufficient to support Respondent's conclusion that probation is inappropriate for Relator. Relator received two conduct violations prior to entering the long-term treatment program, which the Missouri Department of Corrections Board of Probation and Parole Court Report Investigation notes without further description. The Report highlights the facts that Relator had received no conduct violations during the pendency of the long-term treatment program, showed an ability to self-correct behaviors when addressed, and had met all objectives and expectations of the program. Notably, the Board did not consider Relator's two conduct violations significant enough to affect its recommendation that Relator be placed on probation. The Report's summary notation of these two pre-program, minor conduct violations alone does not support Respondent's conclusion under the circumstances here that probation is not appropriate for Relator.

Opinion by: Gary M. Gaertner, Jr., P.J.
Robin Ransom, J., and Angela T. Quigless, J., concur.

Attorney for Relator: Terry Upshaw, Relator acting pro se
Attorney for Respondent: Jacob T. Costello