MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

Respondent,

v.

KEITH B. HUDSON,

Appellant.

DOCKET NUMBER WD83128

Date: September 1, 2020

Appeal from:

Jackson County Circuit Court
The Honorable Bryan Round, Judge

Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, Lisa White Hardwick and Thomas N. Chapman, Judges

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Attorneys:
Kathryn M. Merwald, Kansas City for appellant.
Daniel N. McPherson, Jefferson City for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
KEITH B. HUDSON, Appellant.

WD83128 Jackson County

Before Division Three Judges: Gary D. Witt, Presiding Judge, Lisa White Hardwick and Thomas N. Chapman, Judges

Keith Hudson appeals from the judgment sentencing him after he was convicted of second-degree robbery and receiving stolen property. He contends the circuit court erred in not allowing him to be physically present for his sentencing on the second-degree robbery conviction.

SENTENCE VACATED AND CASE REMANDED.

Division Three holds:

The circuit court erred in sentencing Hudson via video conference. Section 546.550, RSMo 2016, requires that, if a conviction is punishable by imprisonment, the defendant must be personally present for sentencing. Section 561.031.1(6), RSMo 2016, provides that the defendant may appear for sentencing after conviction at trial by way of two-way audio-visual communication, but only "upon waiver of any right such person might have to be physically present." It is undisputed that Hudson properly objected before the circuit court and did not waive his right to be physically present. Therefore, we must vacate Hudson's sentence for second-degree robbery and remand for resentencing to allow him to be physically present.

Opinion by: Lisa White Hardwick, Judge September 1, 2020

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