MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

Respondent,

v.

CHRISTOPHER EUGENE PIKE,

Appellant.

DOCKET NUMBER WD83180

Date: January 12, 2021

Appeal from:
Platte County Circuit Court
The Honorable James W. Van Amburg, Judge

Appellate Judges:
Division Three: Edward R. Ardini, Jr., P.J., Alok Ahuja and Gary D. Witt, JJ.

Attorneys:
Jeannie M. Willibey, Kansas City for appellant
Julia E. Rives, Jefferson City for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
CHRISTOPHER EUGENE PIKE, Appellant.

WD83180 Platte County

Before Division Three Judges: Edward R. Ardini, Jr., P.J., Alok Ahuja and Gary D. Witt, JJ.

Christopher Pike was convicted in the Circuit Court of Platte County of domestic assault in the second degree. The conviction arises from an incident in April 2018 in which Pike assaulted his then-girlfriend in his home.

During voir dire at Pike's trial, two venirepersons indicated that their ability to be fair and impartial in Pike's case could "possibly" be affected by the fact that they had family members who had been victims of sexual assault. Neither party moved to strike these venirepersons from Pike's jury, and they both served on the jury.

Pike appeals, asserting that the circuit court plainly erred in failing to strike the two venirepersons for cause, *sua sponte*.

CONVICTIONS AFFIRMED, BUT JUDGMENT VACATED FOR ENTRY OF AN AMENDED JUDGMENT *NUNC PRO TUNC*.

Division Three holds:

The Missouri Supreme Court has held that, even where a criminal defendant fails to move to strike a venireperson for cause, the defendant is entitled to plain-error review of a claim that the court should have stricken the venireperson on its own motion. The Court has also held, however, that a trial court is under no duty to strike a venireperson *sua sponte*. In these circumstances, we find no evident, obvious and clear error in the circuit court's failure to strike the venirepersons Pike now challenges. Moreover, given that those venirepersons only indicated that their personal experiences could "possibly" affect their ability to be fair and impartial, and given the relatively favorable outcome Pike achieved at trial, we find no manifest injustice which would warrant plain-error relief.

We are required to vacate the judgment and remand to the circuit court, however, because the judgment incorrectly states that Pike was convicted of assault in the second degree in violation of § 565.052, RSMo, even though the court orally pronounced sentence for domestic assault in the second degree in violation of § 565.073, RSMo. We remand to the circuit court for entry of a *nunc pro tunc* judgment correctly identifying the offense of which Pike was convicted, and for which he was sentenced.

Opinion by: Alok Ahuja, Judge January 12, 2021

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