

**MISSOURI COURT OF APPEALS--WESTERN DISTRICT**  
**DIVISION IV**  
**CYNTHIA L. MARTIN, CHIEF JUDGE, PRESIDING**  
**MARK D. PFEIFFER, JUDGE,**  
**JAMES E. WELSH, SPECIAL JUDGE**  
**OCTOBER 13, 2021**  
**UNIVERSITY OF CENTRAL MISSOURI**  
**WARRENSBURG, MISSOURI**

**WD83778**

**State of Missouri, Respondent,**

**v.**

**Gary Dale Lee, Appellant**

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Gary Lee appeals his convictions following a jury trial of two counts of statutory rape in the second degree. Lee does not challenge the facts surrounding the alleged rapes. Instead, Lee challenges the sufficiency of the evidence to establish that T.G. was actually sixteen at the time they had sex. The facts, as alleged, claim that Lee and T.G. began a consensual sexual relationship in 2016, when T.G. was sixteen and Lee was approximately 43. In October 2017, the police interviewed Lee about having sex with T.G. while she was sixteen. Lee admitted that he had sex with her, acknowledged that she was sixteen, but said he knew that she was not sixteen by the way that she acted. Prior to trial, Lee sought to represent himself. After a hearing and extended questioning of Lee, the circuit court denied Lee's request, finding that he was not knowingly and intelligently waiving his right to counsel. At trial, Lee did not deny he had a sexual relationship with T.G., but sought to challenge that T.G. was sixteen when they began their sexual relationship or to challenge that Lee knew that she was sixteen when they had sex. The jury found Lee guilty on both counts of statutory rape in the second degree. The court sentenced Lee to two concurrent terms of eight years' imprisonment. This appeal followed.

Appellants' points on appeal:

- (1) The trial court erred, in violation of Mr. Lee's rights to due process, a fair trial, and a jury trial under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article I, §§10 and 18(a) of the Missouri Constitution, when it found there was sufficient evidence to sustain Mr. Lee's conviction on Count I, second-degree statutory rape, §566.034 (2010), and entered a judgment of conviction, because to find a defendant guilty of second-degree statutory rape, the complaining witness must be less than seventeen years of age, and the evidence in the case established TG was seventeen years old during the charge period if her life began at conception as required by section 1.205.
- (2) The trial court erred, in violation of Mr. Lee's rights to due process, a fair trial, and a jury trial under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it

found there was sufficient evidence to sustain Mr. Lee's conviction on Count II, second-degree statutory rape, §566.034 (2017), and entered a judgment of conviction, because to find a defendant guilty of second-degree statutory rape, the complaining witness must be less than seventeen years of age, and the evidence in the case established TG was seventeen years old during the charge period if her life began at conception as required by section 1.205.

- (3) The trial court erred and abused its discretion, in violation of Mr. Lee's rights to self-representation under the Sixth and Fourteenth Amendments to the United States Constitution and Article I, §18(a) of the Missouri Constitution, when it denied Mr. Lee's assertion of his right to self-representation, because a Court must permit a defendant to represent himself if he makes a timely, unequivocal, knowing, and intelligent assertion of the right to self-representation, in that Mr. Lee made a timely, unequivocal, knowing, and intelligent assertion of his right to self-representation.

**WD84127**

**Christina M. Aldrich, Respondent,**

**v.**

**Jonathan E. Aldrich, Appellant**

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Jonathan Aldrich appeals from the judgment and decree of dissolution entered by the circuit court dissolving the marriage between the parties. Christina Aldrich filed a Petition for Dissolution of Marriage on January 17, 2019. In response, Jonathan filed a motion to dismiss contending that the parties were not actually married. The facts, as alleged, established that the parties participated in a marriage ceremony on October 25, 1991, but that the parties did not apply for, obtain, or record a marriage license. The parties did, however, hold themselves out as married. The parties represented to others that they were married and, for twenty-eight years, filed joint and marital tax returns and titled real estate as if they were married. Ultimately, the circuit court denied Jonathan's motion to dismiss, finding that he was estopped to deny the court's authority to proceed in dissolving the marriage. The court entered a judgment and decree of dissolution, and this appeal followed.

Appellants' points on appeal:

- (1) The trial court erred in finding that the parties were married because there was no substantial evidence to support that finding in that the unrefuted evidence showed the parties did not comply with RSMo. §451.040 requiring that no marriage contracted shall be recognized as valid unless a license was obtained since (a) the parties never applied for a marriage license, (b) the parties never obtained a marriage license, and (c) the parties were never issued a marriage license from any recorder of deeds.

- (2) The trial court erred in denying appellant's motion to dismiss Count I for dissolution of marriage of the second amended petition because the court was without authority to grant a dissolution of marriage in that the unrefuted evidence established that the parties failed to satisfy the requisites of RSMo. §451.040 to form a valid marriage and therefore the pleading requirements of RSMo. §452.310 and Rule 55.05 could not be met such that wife lacked standing to seek a dissolution of marriage, and since it appeared by suggestion that the court lacked authority to enter a dissolution of marriage, dismissal was required.
- (3) The trial court erred in granting the judgment and decree of dissolution because the court was without authority to grant this relief pursuant to Missouri Supreme Court Rule 55.05(1) and (2) and RSMo. Chapter §452, in that the unrefuted evidence established that the requisites of RSMo. §451.040 were not met in order to form a valid marriage and since the parties were not validly married, the requisites for authority to obtain a judgment of dissolution of marriage could not have been met, conditions essential to the court's authority to dissolve a marriage.

**WD84502**

**Suzanne Steinbach, Appellant,**

**v.**

**Maxion Wheels Sedalia, LLC, Respondent**

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Suzanne Steinbach appeals from the circuit court's judgment granting Maxion Wheels Sedalia, LLC's motion for summary judgment on Steinbach's petition raising claims of discrimination and harassment for the period of May 2016 through September 2017, and retaliation, continued discrimination, and harassment for the period of September 2017 through January 2018. The facts, as alleged, contend that Steinbach began work for Maxion Wheels Sedalia, LLC on May 8, 2016. Steinbach alleged that she experienced sexual harassment and discrimination based on sex from the beginning of her employment. In September 2017, Steinbach complained to her supervisor and Maxion's Human Resources Director about the sexual harassment. Steinbach contends that, following the complaints, certain Maxion employees retaliated against her by changing her assignments and making her work more difficult. Steinbach complained about the retaliation on October 17, 2017. Thereafter, Steinbach experienced additional retaliation. Steinbach took a leave of absence for surgery from January 31, 2018, to June 6, 2018. During this time, Steinbach filed a charge of discrimination with the Missouri Commission on Human Rights. Steinbach returned to work on June 6, 2018, but only worked until June 13, 2018, when her doctor restricted her from further work until her next appointment. By August 28, 2018, Steinbach's doctor had not returned her to work and could not give an estimate on when she would be able to return. On August 29, 2018, Maxion informed Steinbach that she would be terminated effective August 30, 2018, because she had exhausted all her medical leave. On October 25, 2018, Steinbach filed her petition in the circuit court, alleging discrimination, harassment, and retaliation, for two distinct periods of time. Also, on October 25, 2018, Steinbach filed a second charge of discrimination with the

Missouri Commission on Human Rights, alleging that Maxion had retaliated against her after, and because of, her first charge of discrimination. On July 22, 2019, Steinbach filed suit on the claims set forth in her second charge of discrimination. Maxion removed that case to federal court. On September 24, 2020, a federal jury returned a verdict for Maxion. On October 15, 2021, Maxion amended its answer in the first proceeding to raise the affirmative defense of *res judicata* because of the federal court judgment. On November 30, 2020, Maxion filed a motion for summary judgment, contending that the circuit court lawsuit was now barred by *res judicata*. On April 1, 2021, the circuit court granted Maxion's motion. This appeal followed.

Appellants' points on appeal:

- (1) The trial court erred in entering summary judgment against plaintiff because plaintiff's two pending claims are not barred by *res judicata*, in that (A) the trial court erroneously concluded that plaintiff's two pending claims seek relief for the same time period as the claim that was tried to a federal court jury, when in fact the present claims address a different time period for which relief could not have been obtained in the federal court case, such that plaintiff has not split a single claim; and (B) if the filing by plaintiff of a second lawsuit was the splitting of a claim, defendant acquiesced in the claim splitting by removing the second lawsuit to federal court which prevented the claims in the first and second lawsuits from ever being consolidated and prevented the federal court from granting plaintiff the relief sought in the petition in the first case, and the trial court erroneously believed that plaintiff could have somehow combined the claims together in a single lawsuit after defendant's removal to federal court.
- (2) The trial court abused its discretion in denying plaintiff's Motion for Leave to File a Reply Out of Time because the trial court applied the wrong legal standard in that the applicable standard is the "Leave Shall be Freely Given" Standard of Rule 55.33(a) and had the trial court applied the correct standard, it would have resulted in the denial of summary judgment because the affirmative defense of *res judicata* was waived by defendant's failure to timely raise claim splitting in answer to either of plaintiff's petitions and by defendant's removal of the second case to federal court.