MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI

RESPONDENT,

v.

GARY DALE LEE

APPELLANT.

DOCKET NUMBER WD83778

DATE: October 26, 2021

Appeal From:

Jackson County Circuit Court
The Honorable James F. Kanatzar, Judge

Appellate Judges:

Division Four: Cynthia L. Martin Chief Judge, Presiding, Mark D. Pfeiffer, Judge and James E. Welsh, Senior Judge

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Attorneys:

Daniel N. McPherson, Jefferson City, MO, for respondent.

Damien De Loyola, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, RESPONDENT,
v.
GARY DALE LEE, APPELLANT.

WD83778 Jackson County

Before Division Four Judges: Cynthia L. Martin Chief Judge, Presiding, Mark D. Pfeiffer, Judge, and James E. Welsh, Senior Judge

Gary Lee appeals from a judgment convicting him of two counts of statutory rape in the second degree. Lee argues that there was insufficient evidence to sustain his convictions for statutory rape in the second degree, in that the evidence established that Victim was seventeen years old during the charge period if her life began at conception as required by section 1.205, RSMo. Lee also asserts that the trial court erred in denying his request to represent himself at trial.

REVERSED AND REMANDED.

Division Four holds:

1. Section 1.205 does not provide a legal basis for calculating age of a victim based on the date of conception. We find no error in using Victim's date of birth to calculate her age for purposes of determining whether sufficient evidence established that Lee committed statutory rape pursuant to section 566.034, RSMo.

2. The record establishes that Lee's assertion of his right to represent himself was timely, unequivocal, knowing, and intelligent. The trial court erred when it inquired into Lee's technical legal knowledge and used his purported lack of legal knowledge as a basis to deny his right to represent himself.

Opinion by: Cynthia L. Martin, Judge October 26, 2021

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