MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

Respondent,

v.

ERIC DEWANE BUSEY,

Appellant.

DOCKET NUMBER WD83720

Date: December 21, 2021

Appeal from:

Buchanan County Circuit Court
The Honorable Patrick K. Robb, Judge

Appellate Judges:

Division Three: Lisa White Hardwick, Presiding Judge, Gary D. Witt, and Edward R. Ardini, Jr., Judges

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Attorneys:
Keith P. O'Connor, 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.
ERIC DEWANE BUSEY, Appellant.

WD83720 Buchanan County

Before Division Three Judges: Lisa White Hardwick, Presiding Judge, Gary D. Witt, and Edward R. Ardini, Jr., Judges

Eric Busey appeals from his conviction of unlawful use of a weapon and sentence of 15 years in prison. Busey contends the circuit court erred in finding that he was not competent to act as his own attorney because he did not knowingly and intelligently waive his right to counsel and in denying his motion for acquittal in that the guilty verdict was unsupported by the evidence. Busey further contends that the circuit court's imposed sentence of a statutorily required 15-year prison term was excessive, or, in the alternative, that the statute is unconstitutional.

AFFIRMED.

Division Three holds:

(1) Although Busey directly challenged the constitutionality of a state statute, transfer to the Supreme Court was inappropriate where Busey failed to timely raise the constitutional issue below and failed to present a real and substantial, not merely colorable challenge.

(2) The circuit court did not err in finding that Busey did not waive his right to counsel knowingly or intelligently. The record contains Busey's numerous acknowledgements that he did not understand his rights, the consequences of waiver, or the circumstances he faced. The record also demonstrates Busey's belligerent conduct towards the circuit court, his confusion of court processes, and an inability to alter his conduct in the future.

(3) Substantial evidence supported the verdict where Busey's conduct allowed for the reasonable inference that he aided or encouraged the shooting. Busey drove a vehicle at high rates of speed down city streets while chasing another vehicle. During the chase, a passenger in Busey's vehicle fired shots in order to scare the occupants of the fleeing vehicle, and Busey continued the chase even after the first shots were fired. Under the circumstances, the circuit court could make the reasonable inference that Busey acquiesced to his passenger's conduct, and that the shooting would not have occurred but for Busey's high speed pursuit of the fleeing vehicle.

Opinion by: Lisa White Hardwick, Judge December 21, 2021

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