OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

CANDICE R. GILLAM,	)	No. ED109711
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of Washington County
vs.	)	20WA-CC00293
	)	
STATE OF MISSOURI,	)	Honorable Wendy Wexler Horn
	)	
Respondent.	)	Filed: February 15, 2022

Candice R. Gillam ("Movant") appeals the motion court's judgment denying her Rule 24.035[1] amended motion for post-conviction relief without an evidentiary hearing after pleading guilty to possession of a controlled substance under section 195.202 RSMo Cum. Supp. 2012 (effective from August 28, 2011 to December 31, 2016)[2] and first-degree endangering the welfare of a child under section 568.045 RSMo Cum. Supp. 2010 (effective from August 28, 2009 to December 31, 2016).[3] Movant's primary argument on appeal is that her convictions violate her constitutional protections against multiple punishments under the Double Jeopardy Clause of the Fifth Amendment to the U.S. Constitution ("the Double Jeopardy Clause") because a conviction under section 195.202 is a lesser-included offense of a conviction under section 568.045.

AFFIRMED.

Division Two Holds: Possession of a controlled substance under section 195.202 is not a lesser-included offense of first-degree endangering the welfare of a child under section 568.045. Therefore, Movant's convictions under sections 195.202 and 568.045 do not violate Movant's constitutional protections against multiple punishments for the same offense under the Double Jeopardy Clause.

Opinion by: Robert M. Clayton III, P.J.
Gary M. Gaertner, Jr., J., and Thomas C. Clark II, J., concur.

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[1] All references to Rules are to Missouri Supreme Court Rules (2020), which was the version of the Rules in effect at the time Movant's pro se Rule 24.035 motion for post-conviction relief was filed on July 20, 2020.
[2] All further references to section 195.202 are to the version of the statute that was in effect from August 28, 2011 to December 31, 2016. We also note section 195.202 was transferred to section 579.015, effective January 1, 2017.
[3] All further references to section 568.045 are to the version of the statute that was in effect from August 28, 2009 to December 31, 2016.

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THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.