OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,	)	No. ED110299
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Charles County
v.	)	Cause No. 0711-CR02459
	)	
CHRISTOPHER J. POTTER,	)	Honorable Philip J. Ohlms
	)	
Appellant.	)	Filed: December 6, 2022

Christopher Potter (Defendant) appeals the judgment of the trial court denying his motion under Rule 29.07(d) to withdraw his 2007 plea of guilty to the class B misdemeanor of driving while intoxicated (DWI). Defendant argues the State never filed a proper indictment or information charging him with DWI, and therefore the trial court did not have jurisdiction to convict him or sentence him for this offense.

AFFIRMED.

Division Three Holds: Failure to file a proper charging document does not deprive the circuit court of jurisdiction, rather, the issue is one of due process. To be entitled to relief under Rule 29.07(d), Defendant has to show manifest injustice, the test for which is whether his plea was unknowing or involuntary. Defendant has not made any allegations regarding the voluntariness of his plea, but to the extent he implies his plea was rendered involuntary by the lack of a formal charging document, we do not find the trial court abused its discretion or clearly erred in denying his motion to withdraw his plea. The State proceeded on the uniform citation issued to Defendant, which was signed by the officer, Defendant, and the prosecutor, stated "D.W.I," and referenced the police report and statute violated. Under the circumstances, this citation did not either fail to charge by any reasonable construction the offense of which Defendant was convicted or hinder the substantial rights of Defendant to prepare a defense or plead former jeopardy in the event of acquittal. See State v. Collins, 328 S.W.3d 705, 708 n.4 (Mo. banc 2011). Moreover, Defendant did not allege that any such deficiencies in the uniform citation actually prejudiced his defense.

Opinion by: Gary M. Gaertner, Jr., P.J.,
John P. Torbitzky, J., and Cristian M. Stevens, J., concur.

Attorney for Appellant: pro se
Attorney for Respondent: Timothy A. Lohmar

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.