

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,	)	
	)	
Respondent,	)	**WD87942**
	)	
v.	)	**OPINION FILED:**
	)	
CURTIS CARL BENENHALEY, JR.,	)	**July 28, 2026**
	)	
Appellant.	)	
	)	

Appeal from the Circuit Court of Henry County, Missouri
Honorable Michael Brandon Baker, Judge

Before Division Two: Janet Sutton, Presiding Judge,
Lisa White Hardwick, Judge, and W. Douglas Thomson, Judge

Curtis Benenhaley (Benenhaley) appeals the judgment of the Circuit Court of Henry County (trial court) convicting him, after a jury trial, of two counts of first-degree statutory sodomy, two counts of incest, and one count of tampering with a victim. Benenhaley raises one point on appeal challenging the trial court's admission of propensity evidence related to Benenhaley's prior second-degree statutory rape and incest convictions, pursuant to article I, section 18(c), of the Missouri Constitution. We affirm.

Factual Background[1]

The State charged Benenhaley with two counts of first-degree statutory sodomy and two counts of incest for incidents occurring on or between June 1, 2021, and January 10, 2022, and one count of tampering with a victim, occurring on or between June 1, 2021, and April 1, 2023. Before trial, the State filed a notice of intent and motion to produce evidence of Benenhaley's prior criminal acts in its case-in-chief pursuant to article I, section 18(c), of the Missouri Constitution. After a hearing, the trial court entered an order sustaining the State's motion, finding that the prior bad act was relevant to the current case, that it corroborated Victim's testimony and went to Benenhaley's propensity to commit the alleged crime, and that the probative value substantially outweighed the danger of unfair prejudice.

The case proceeded to a jury trial. Viewing the evidence in the light most favorable to the verdicts,[2] the evidence adduced at trial showed the following:

Victim was Benenhaley's eight-year-old biological daughter. On January 10, 2022, Victim made a disclosure to her mother (Mother). Mother contacted law enforcement.

Victim participated in a forensic interview on January 12, 2022. The recording of the interview was admitted over Benenhaley's objection as State's Exhibit 1 and published to the jury. During the forensic interview, Victim disclosed that Benenhaley touched her "pee-pee" and she detailed the two times that it happened.

The first incident occurred while Victim was watching television at Victim's uncle's house. Benenhaley asked Victim to sit on his lap, and she said no. Benenhaley pulled Victim by her feet and made her sit on his lap, pulled her pants down, and "started licking" her "pee pee"

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[1] Benenhaley does not challenge the sufficiency of the evidence to support his convictions.

[2] *State v. Wallace*, 725 S.W.3d 112, 115 (Mo. App. W.D. 2025).

with his mouth. Benenhaley did not stop when Victim told him to stop. Benenhaley stopped licking her "pee pee" when Victim "kind of pushed him."

The second incident also occurred at Victim's uncle's house while her uncle was asleep in his own bedroom. Victim was sleeping on the floor and Benenhaley "came on top of" her and started "licking [Victim's] pee-pee." Victim told Benenhaley to stop and "kicked him off" her. Benenhaley then went to bed.

At trial, Victim testified that Benenhaley "licked [her] pee-pee" and told her, "Don't say anything or I'll kill Mom and Grandma."

At trial, the State sought to admit four documents, State's Exhibits 2-5, relating to Benenhaley's prior 2005 sex offense convictions.[3] Exhibit 2 was a two-count felony information charging Benenhaley with second-degree statutory rape and incest against his biological niece who was less than seventeen years old, for incidents occurring on or between May 1 through July 14, 2004. Exhibit 3 was a 2005 sentence and judgment reflecting that Benenhaley had pleaded guilty to the charges of second-degree statutory rape and incest recited in Exhibit 2 and that he was sentenced to concurrent terms of five-and four-years' imprisonment. Exhibit 5 was a probable cause statement detailing the allegations supporting Benenhaley's convictions for second-degree statutory rape and incest. The probable cause statement detailed that Benenhaley's twelve-year-old niece was reported missing after telling her friends that she "wanted to run off with" and was "having sex with" Benenhaley, and that Benenhaley told his friend that "he was in trouble" and asked his friend to give money to his niece. When Benenhaley was arrested, he eventually admitted to being in a "romantic relationship" with his

[3] We are unable to determine what State's Exhibit 4 was, other than it was a document that the trial court deemed would confuse the jury and that it lacked probative value.

twelve-year old-niece and that he had been having sex with her. Benenhaley further detailed that he met his niece in California, they stayed with a third party for a couple of weeks, and they shared a room and a bed while there. Benenhaley told police that he and his niece loved each other, that he knew how old his niece was, but that she was physically and mentally "very mature." The trial court sustained Benenhaley's objection as to State's Exhibit 4, but Exhibits 2, 3, and 5 were admitted and published over Benenhaley's objection.

The State rested its case-in-chief after these exhibits were published. Benenhaley did not testify at trial. At the conclusion of all the evidence, the trial court instructed the jury pursuant to MAI 4th 410.10, which informed the jury that it could consider Benenhaley's alleged prior 2005 conviction for the purpose of corroborating Victim's testimony or demonstrating Benenhaley's propensity to commit the charged offenses in the case.[4]

In closing, the State argued:

> We're not asking you to convict [] Benenhaley of the offenses in today's trial based on what he did in the past. Not solely. The child's testimony, again, whether you believe or disbelieve that child's testimony, that's what you're basing most of all of your opinion on. However . . . the statutes of the State of Missouri allow you to consider certain things in this instance. Again, if you find and believe from the evidence that [Benenhaley] previously committed other criminal acts as statutory sodomy and incest, you may consider that evidence for the purpose of corroborating [Victim's] testimony or demonstrating the propensity to commit the offenses for which he is charged in Counts 1 through 4.
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> Again, propensity, you're going to use your common sense, and what that means is that the Oxford dictionary defines it as the inclination or natural tendency to behave in a particular way. And I think if you consider the acts that he was -- that he pled guilty to, that he was convicted of, of statutory rape and

[4] In his appellate brief, Benenhaley asserts that the instruction was modeled after MAI 4th 410.10, but this instruction has not been included in our record on appeal. The approved instruction also includes language at the beginning informing the jury that they may not find Benenhaley guilty only because they believe he may have been involved in or committed other offenses or bad acts in the past, but may use that information only for the purposes mentioned *supra.* Benenhaley does not challenge the instruction on appeal or argue that the trial court improperly instructed the jury.

incest, I think that shows propensity that [Benenhaley] had sexual acts against his own blood.

In closing, defense counsel argued that Mother manipulated Victim and that Mother engaged in suggestive or leading questions about Benenhaley's actions. Counsel argued that Mother manipulated Victim to fabricate the story because Mother and Benenhaley were in the middle of a separation with a potential divorce looming, and that Victim's disclosure did not make sense, was inconsistent, and lacked credibility.

The jury found Benenhaley guilty as charged. The trial court sentenced Benenhaley to twelve years for each of the first-degree statutory sodomy counts, four years for each of the incest counts, and five years for the tampering with a victim count. The trial court ordered the sentences for the sodomy counts to run consecutively with each other, and the other sentences to run concurrently with all counts.

Benenhaley appeals.

Standard of Review

Like all claims of evidentiary error, the trial court's decision to admit evidence under article I, section 18(c), is reviewed for an abuse of discretion. *State v. Williams*, 548 S.W.3d 275, 287 (Mo. banc 2018). We will not disturb the trial court's evidentiary ruling "unless it is clearly against the logic of the circumstances." *Id.* (citation omitted). "[I]f reasonable persons can differ about the propriety of the action taken by the trial court, then it cannot be said that the trial court abused its discretion." *Id.* (citation omitted).

Analysis

In his sole point on appeal, Benenhaley claims that the trial court abused its discretion by admitting documents establishing his prior second-degree statutory rape and incest convictions

involving his minor niece.[5] Benenhaley argues that the propensity evidence was too dissimilar and too remote to have probative value and that it was unduly prejudicial. We disagree.

> [P]ropensity evidence is evidence of uncharged crimes, wrongs, or acts used to establish that [a] defendant has a natural tendency to commit the crime charged. . . . [P]roof of the commission of separate and distinct crimes is not admissible unless such proof has some legitimate tendency to directly establish the defendant's guilt of the charge for which he is on trial. The law permits the State to try a defendant only for the offense for which he is on trial[,] and [t]his precludes the State from unjustifiably introducing evidence of a defendant's prior, uncharged crimes or bad acts.

State v. Watson, 697 S.W.3d 44, 52 (Mo. App. W.D. 2024) (internal quotation marks and citations omitted). Generally, propensity evidence is inadmissible in criminal cases. *Williams*, 548 S.W.3d at 281. Article I, section 18(c), of the Missouri Constitution, however, "carve[s] out an exception to this general rule by relaxing the standard for the admissibility of propensity evidence in sex-abuse cases involving minors." *Watson*, 697 S.W.3d at 53. *See also State v. Lutes*, 557 S.W.3d 384, 390 (Mo. App. W.D. 2018) ("[I]n the context of sex crimes involving minors, [section 18(c)] unequivocally supersedes the Supreme Court of Missouri's evidentiary rulings that once prohibited propensity evidence.") (internal quotation marks and citation omitted); *State v. Matson*, 526 S.W.3d 156, 158 (Mo. App. W.D. 2017) ("The enactment of Article I, Section 18(c) effectively created a new evidentiary standard for sex crimes involving minors."). Article I, section 18(c), provides:

> Notwithstanding the provisions of sections 17 and 18(a) of this article to the contrary, in prosecutions for crimes of a sexual nature involving a victim under eighteen years of age, relevant evidence of prior criminal acts, whether charged or uncharged, is admissible for the purpose of corroborating the victim's testimony or demonstrating the defendant's propensity to commit the crime with which he or she is presently charged. The court may exclude relevant evidence of prior

[5] These documents were State's Exhibits 2, 3, and 5 which were the charging document, sentence and judgment, and probable cause statement. Benenhaley challenges the three exhibits together and we refer to the three exhibits collectively as the "propensity evidence."

> criminal acts if the probative value of the evidence is substantially outweighed by the danger of unfair prejudice.

Mo. Const. art. I, § 18(c).

Section 18(c) effectively "relieve[d] propensity evidence in certain types of cases from the absolute ban on admissibility, assuming logical and legal relevance is otherwise established." *Lutes*, 557 S.W.3d at 390 (citation omitted). Therefore, "we must determine if the trial court abused its discretion in finding that the propensity evidence was (1) logically relevant—in that it tends to make the existence of a material fact more or less probable; and (2) legally relevant—in that it has probative value that is not outweighed by the danger of unfair prejudice." *Watson*, 697 S.W.3d at 53.

Benenhaley does not assert on appeal that the propensity evidence in question lacks logical relevance. He challenges only the legal relevance prong arguing that the minimal probative value of the propensity evidence was substantially outweighed by its unfair prejudice. "The determination of how much and what kind of probative value particular propensity evidence may have, the nature and extent of the danger of unfair prejudice presented by that evidence, and whether the former is substantially outweighed by the latter, are intensely case-specific questions." *Williams*, 548 S.W.3d at 288. Further, in deciding these questions, the relevant factors for consideration will vary from case to case, as will the weight to be afforded to any particular factor. *Id.*

Probative Value

Before propensity evidence can be said to have any probative value, the jury must be able to sufficiently conclude that a defendant actually committed the prior criminal act. *Id.* This consideration is easily met when a defendant has pleaded guilty to a prior criminal offense because any doubt about culpability is eliminated. *Watson*, 697 S.W.3d at 53. *See also*

Williams, 548 S.W.3d at 288-89. Here, Benenhaley pleaded guilty to second-degree statutory rape and incest, "removing any doubt as to whether he had committed the criminal act[s]" and State's Exhibit 3, which was shown to the jury, was the judgment memorializing his guilty plea. *See Id*. at 289. Accordingly, there was sufficient evidence for the jury to conclude that Benenhaley committed the prior offenses. *See id.*

In determining the issue of probative value, "trial courts also examine whether a defendant 'actually had a propensity to commit the charged crime at the time it is alleged to have occurred.'" *Watson*, 697 S.W.3d at 54-55 (quoting *Williams*, 548 S.W.3d at 289). To make this determination, the following factors may be considered: the similarity between the prior and charged conduct, the amount of time between the two, and the State's need for the propensity evidence to prove its case. *Id.* at 54; *State v. Robinson*, 662 S.W.3d 120, 126 (Mo. App. S.D. 2023); *State v. Shepard*, 662 S.W.3d 761, 770 (Mo. App. E.D. 2023).

Regarding similarity of the offenses, "[p]rior acts of child molestation are relevant when the acts were committed in a manner similar to the charged offense." *State v. Prince*, 534 S.W.3d 813, 820 (Mo. banc 2017) (internal quotation marks and citation omitted). Similarities in age, familial relationship with the accused, and similar abuse accounts have repeatedly been deemed by Missouri courts to be highly probative of a defendant's propensity to commit the charged offense. *Watson*, 697 S.W.3d at 54.[6]

[6] *See State v. Coyle*, 671 S.W.3d 702, 721 (Mo. App. W.D. 2023) ("[T]he similarities in ages of [the propensity witnesses and the victim] at the time of the offenses against them, and [the defendant's] willingness to engage in sexual misconduct with victims he knows or is related to."); *State v. Pierce*, 678 S.W.3d 115, 122 (Mo. App. S.D. 2023) ("We give great weight to the similarity of acts and ages of the victims."); *State v. Robinson*, 662 S.W.3d 120, 126 (Mo. App. S.D. 2023) ("[T]his court notes the similarity of the acts to which [the propensity witness] testified and the acts for which Defendant was charged. Both victims were of a similar age at the time of the alleged inappropriate touching, both victims were relatives of Defendant, and both acts involved Defendant groping the victim's breasts."); *State v. Shepard*, 662 S.W.3d 761, 770 (Mo. App. E.D. 2023) ("[G]reat weight should be afforded to the similarities in the ages of [the

Benenhaley's prior crimes were highly similar to the charged offenses. Both of his victims were minor female relatives who Benenhaley subjected to sexual abuse. Evidence of Benenhaley's sexual abuse of his twelve-year-old niece tended to corroborate Victim's—Benenhaley's eight-year-old daughter's—testimony. The evidence of Benenhaley's prior crimes demonstrated his "willingness to engage in sexual misconduct with victims he . . . is related to." *See State v. Coyle*, 671 S.W.3d 702, 721 (Mo. App. W.D. 2023).

Benenhaley contends that his prior crimes were dissimilar from the charged offenses because the ages of the victims "differed substantially" in that the victim from his prior conviction was twelve years old and Victim in the charged offenses was eight years old. This argument is unpersuasive. Benenhaley's misconduct in both cases was against young females. *See Prince*, 534 S.W.3d at 819 (finding that the defendant's prior crimes involving his six-year-old niece were similar to the charged offense against a non-relative four-month-old infant because "both cases were against young females" to whom the defendant "had access" because of a close family-like relationship with him). The four-year age gap between Victim and the victim from Benenhaley's previous crimes did not render the crimes dissimilar.[7]

Benenhaley also argues that his prior offenses "sharply differed from the [current] statutory sodomy charges by kind and degree[.]" He argues the prior offenses involved multiple completed acts of sexual intercourse whereas his current offenses were two isolated incidents of

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propensity witness and the victim] and the fact they were not strangers to [the defendant] because it tends to show an ongoing propensity to engage in the charged crime."); *State v. Brammer*, 614 S.W.3d 18, 27 (Mo. App. E.D. 2020) (explaining that a defendant's past crimes were "highly probative" for showing a propensity to commit the charged offenses where "[b]oth involved young female victims, similar body parts, and similar accusations").

[7] In *State v. Lutes*, 557 S.W.3d 384, 393 n.7 (Mo. App. W.D. 2018), we observed that Missouri case law suggests that "the relevant 'age' is that of a 'minor' child victim, that is, a victim under the age of eighteen."

sexual conduct. We disagree and conclude that both forms of sexual abuse were sufficiently similar to support admission of the propensity evidence as the conduct does not need to be identical. State's Exhibit 5 reflected Benenhaley's admission to having sexual intercourse with his twelve-year-old niece, while Victim testified that Benenhaley "licked [her] pee-pee." In *Shepard*, propensity evidence that the defendant watched pornography with and masturbated in the presence of his prior victim was deemed "sufficiently similar" to the charged offenses involving sexual intercourse because it permitted a finding that the defendant "had a propensity toward sexual crimes against underage girls." 662 S.W.3d at 766-67, 770. The Court noted that "great weight should be afforded to the similarities in the ages of [the victims] and the fact they were not strangers to [the defendant] because it tends to show an ongoing propensity to engage in the charged crime." *Id*. The same is true here.

We also look at the amount of time between the prior offense and the charged offenses. "Remoteness and similarity must be considered together because the two concepts are so closely related." *Prince*, 534 S.W.3d at 820 (citation omitted). "Remoteness is not subject to a rigid rule, but will depend on the facts of the case." *Id.* (citation omitted). Evidence may be rendered inadmissible because of a remoteness in time when the prejudicial effect outweighs the probative value. *Id*. Here, Benenhaley's prior crimes arose from incidents occurring on or between May 1 through July 14, 2004, and in this case, the charged offenses occurred on or between June 1, 2021, through January 10, 2022. This gap in time, approximately seventeen years, is within the range of cases cited with approval in *Prince*. *Id.* (collecting cases finding acts twenty to thirty years past were not too remote to preclude admissibility). And, as we have explained, "Missouri courts have found that propensity evidence was admissible under section 18(c) even when the acts occurred over twenty years before the charged acts." *State v. Billings*, 694 S.W.3d 556, 568

(Mo. App. W.D. 2024). *See State v. Pierce*, 678 S.W.3d 115, 122 (Mo. App. S.D. 2023) ("nearly forty years had elapsed" between prior and charged acts); *State v. Brown*, 596 S.W.3d 193, 208-09 (Mo. App. W.D. 2020) (seventeen to twenty-one years between the prior uncharged criminal act and the charged crimes); *State v. Brammer*, 614 S.W.3d 18, 27-28 (Mo. App. E.D. 2020) (involving evidence of convictions that occurred over twenty-five years in the past); *State v. Peirano*, 540 S.W.3d 523, 528-29 (Mo. App. S.D. 2018) (gaps between nineteen and twenty-seven years). Accordingly, we do not find the prior offenses too remote in time.

Finally, in determining the probative value of certain propensity evidence, courts have looked to the prosecution's need for the evidence to prove its case. *Williams*, 548 S.W.3d at 289. "Prior acts evidence need not be absolutely necessary to the prosecution's case in order to be introduced; it must simply be helpful or practically necessary." *Id*. (citation omitted). "The need for, and corresponding probative value of, propensity evidence is greater when the State's case depends only on the victim's testimony and that victim's credibility is attacked by the defense." *Shepard*, 662 S.W.3d at 770. Here, the State had an appreciable need to introduce evidence of Benenhaley's prior crimes. There were no witnesses to Victim's abuse, making her the only eyewitness who testified to the abuse, and there was no medical or scientific evidence to corroborate Victim's account. Benenhaley's counsel argued that Victim had been easily manipulated by Mother during her separation from Benenhaley, and that Victim's disclosure was not coincidental, did not "make sense," and that Victim told the story to please Mother. The evidentiary challenges presented by this type of case—coupled with the defense's attack on the credibility of the State's witnesses, including Victim—enhanced the probative value of the propensity evidence. *See Williams*, 548 S.W.3d at 289 (holding that the trial court did not abuse its discretion in admitting propensity evidence, in part, because there were no eyewitness

accounts and "[n]o other scientific, forensic, medical, or psychological witness was available") (internal quotation marks and citations omitted). The propensity evidence need not have been "absolutely necessary" to the State's case, as it need only be "helpful or practically necessary." *Id.*

After consideration of all of these circumstances, we conclude that the trial court did not abuse its discretion in determining that the propensity evidence had probative value.

Risk of Unfair Prejudice

Next, we turn to the risk of unfair prejudice as one side of the scale is probative value, but the other side is the risk of unfair prejudice. *Id.* at 290; *Davison*, 636 S.W.3d at 594.

> Some of the factors bearing on the prejudicial effect of propensity evidence are: [1] whether the jury knows or can fairly infer the defendant was punished for his past criminal acts . . . [2] the manner in which the [S]tate proves the prior criminal act at trial . . . [3] whether the evidence of the defendant's prior criminal act eclipses—or is overshadowed by—the evidence of the charged crime . . . [and] [4] the manner in which the [S]tate uses the evidence at trial.

Davison, 636 S.W.3d at 594 (internal quotation marks and citations omitted). These are not the only factors that might have relevance in a case and no factor is necessarily controlling over the other. *Shepard*, 662 S.W.3d at 771.

"One factor bearing on the prejudicial effect of propensity evidence is whether the jury knows or can fairly infer the defendant was punished for his past criminal acts." *Williams*, 548 S.W.3d at 290. Where, as here, the jury knows that a defendant was convicted for his prior criminal acts, "this risk is minimized." *Id.*

As to the second factor, we consider how the State proved Benenhaley's prior criminal act at trial because, the "[t]he danger of unfair prejudice from propensity evidence also can be a function of the manner in which the [S]tate proves the prior criminal act at trial." *Id.* For example, in *Williams*, the Supreme Court of Missouri concluded the danger of unfair prejudice

was minimized because the State presented the propensity evidence by a "dispassionate stipulation." *Id.* Similarly, here, the danger of unfair prejudice to Benenhaley was minimized because the State presented the propensity evidence in the form of exhibits, and not emotional testimony from the previous victim in his case. *See State v. Minor*, 648 S.W.3d 721, 739 (Mo. banc 2022) (Powell, J., concurring) (distinguishing "the stoic and emotionless presentation of an exhibit" from "a living, breathing person recounting unfathomable details of traumatic events and abuse"). Benenhaley argues that the probable cause statement, State's Exhibit 5, was not emotionless but instead it painted a disturbing and harrowing picture of his prior crimes. While the details of Benenhaley's prior crimes against his niece are indeed disturbing, the State presented this evidence in one of the least inflammatory ways possible and it did so without unduly inflaming the emotions of the jury.

We turn next to the factor of whether the evidence of Benenhaley's prior criminal act eclipsed or overshadowed the evidence of the charged crimes. *See id*. As we have already said, the evidence that Benenhaley contends was unduly prejudicial consisted of a dispassionate memorialization of his admission to the underlying prior criminal conduct and a document describing the crimes, and this did not overshadow Victim's recorded disclosure and live testimony of Benenhaley's abuse.

Finally, we consider the manner in which the State used the evidence at trial. *See id.* at 291. If the prosecution spends undue time emphasizing the defendant's prior conduct or it invites the jury to convict because the defendant is a "bad" or "wicked" person rather than because he committed the charged crime, the danger of unfair prejudice becomes "untenable." *Id.* This did not occur here.

In its opening statement, the State said:

> [The] State intends to show you copies of court documents which would show that [Benenhaley] was found guilty of a felony in around 2004, that [Benenhaley] was found charged [sic] of statutory rape and incest. Again, this would be a separate charge, separate incident entirely that happened years ago. Different people involved in that than the case at hand.

The State did not adduce evidence of Benenhaley's prior conviction until State's Exhibits 2, 3, and 5 were admitted, and then the State rested its case-in-chief. In closing argument, the State clearly explained that it was "not asking [the jury] to convict [] Benenhaley of the offenses in today's trial based on what he did in the past," but that Benenhaley's prior crimes could be considered "for the purpose of corroborating [Victim's] testimony or demonstrating the propensity to commit the offenses for which he is charged[.]" This is comparable to *Williams*, where the State did not unduly emphasize the defendant's prior criminal act because it referenced it only minimally in opening, during its case-in-chief, and in closing, and the State limited its use for its proper purpose. 548 S.W.3d at 291-92. Here, the State's limited and proper use of the propensity evidence lowers the danger of unfair prejudice. *See id.* at 291.

Finally, the trial court instructed the jury that Benenhaley was presumed innocent, and that his prior crimes, if believed to have occurred, could be considered only for the purpose of corroborating Victim's testimony or demonstrating Benenhaley's propensity to commit the charged offenses. The jury is presumed to have followed the trial court's instructions. *See Minor*, 648 S.W.3d at 731.

To conclude, Benenhaley has failed to demonstrate that the danger of unfair prejudice of the propensity evidence, State's Exhibits 2, 3, and 5, substantially outweighed its probative value. The trial court did not abuse its discretion in admitting the propensity evidence.

Benenhaley's sole point on appeal is denied.

Conclusion

The trial court's judgment is affirmed.



Janet Sutton, Presiding Judge

Lisa White Hardwick and W. Douglas Thomson, JJ. concur.