MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
MICHAEL LEROY BUTLER, Appellant.

DOCKET NUMBER WD87979

DATE: JULY 28, 2026

Appeal From:

Boone County Circuit Court
The Honorable Stephanie M. Morrell, Judge

Appellate Judges:

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

---

Attorneys:

William J. Swift, Columbia, MO, for Appellant,

Kristen S. Johnson, Jefferson City, MO, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
MICHAEL LEROY BUTLER, Appellant.

WD87979 Boone County

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

Michael Butler appeals his conviction for third-degree domestic assault. He contends the circuit court erred in sentencing him as a persistent offender because Sections 558.016 and 558.021, RSMo Cum. Supp. 2023, are unconstitutional. Butler also asserts the court erred in admitting evidence of an uncharged crime. Butler has filed a motion to transfer the appeal to the Missouri Supreme Court, alleging the Supreme Court has exclusive appellate jurisdiction of his appeal under Article V, Section 3, of the Missouri Constitution because he is challenging the constitutionality of Sections 558.016 and 558.021.

MOTION TO TRANSFER DENIED; JUDGMENT AFFIRMED.

Division Two holds:

1. We need not transfer this appeal to the Supreme Court. While the appeal was pending, the Supreme Court addressed a similar challenge to the constitutionality of the statutory scheme for the imposition of extended terms for persistent intoxication-related traffic offenders in *State ex rel. Hanaway v. Hellmann*, 728 S.W.3d 410 (Mo. banc 2026). Because the Supreme Court has addressed this constitutional challenge, Butler's claim is merely colorable, and we retain jurisdiction of this appeal.

2. The circuit court did not err in sentencing Butler as a persistent offender. The court followed the same procedure approved in *Hellmann*, 728 S.W.3d at 415, to ensure the jury unanimously found, beyond a reasonable doubt, that Butler committed the charged offense after having been convicted of two other felonies that were committed on occasions different from one another. Adherence to this procedure rendered Sections 558.016 and 558.021 facially constitutional and constitutional as applied to Butler.

3. The circuit court did not err in admitting evidence of Butler's uncharged crime because it was part of the sequence of events surrounding the charged offense, was probative of Butler's mental state when he committed the charged offense, and provided

important context for understanding the victim's conduct. Therefore, the evidence had significant probative value. Butler failed to provide any facts or law to support his bare assertion that its probative value was outweighed by its prejudicial effect.

Opinion By: Lisa White Hardwick, Judge July 28, 2026

This summary is UNOFFICIAL and should not be quoted or cited.