

**MISSOURI COURT OF APPEALS, WESTERN DISTRICT
Division Four**

**Gary D. Witt, Chief Judge, Presiding
Alok Ahuja, Judge
Edward R. Ardini, Judge**

**March 13, 2024
William Woods University
Fulton, Missouri**

WD86083

Leonard R. Mims, Respondent,

v.

State of Missouri, Appellant.

Appellant State of Missouri appeals the decision of the Circuit Court of Jackson County granting Respondent Leonard Mims's Rule 24.035 motion for post-conviction relief. In 2021, as part of a plea agreement, Mims entered an Alford plea to one count of statutory sodomy in the first-degree. The court sentenced him to eight years' imprisonment. During his plea hearing, Mims indicated that he understood that the reduced charge to which he was pleading had a minimum sentence of five years. He also stated that he understood the requirement that he served 85% of his sentence before parole eligibility. Following sentencing, Mims filed his Rule 24.035 motion alleging that the plea court erred in accepting his guilty plea and failing to advise him of the minimum sentence of 10 years and that he was required to serve 85% of his sentence prior to being eligible for parole. He further alleged that counsel was ineffective in failing to advise him he was required to served 85% of his sentenced. The circuit court granted Mims post-conviction relief. This appeal followed.

Appellant's points on appeal:

1. The motion court clearly erred in granting post-conviction relief on the grounds that the plea court erred in sentencing movant to eight years for first-degree statutory sodomy when the minimum sentence for the offense was 10 years because the eight-year sentence was authorized in that the sentence was within the range of punishment for the charged offense.
2. The motion court clearly erred in granting post-conviction relief on the grounds that the plea court erred in misadvising movant as to parole eligibility because the plea court did not misadvise movant of his parole eligibility in that the offense to which movant pled guilty— first-degree statutory sodomy of a child less than 14—did not require movant to serve 85% of his sentence prior to becoming eligible for parole.
3. The motion court clearly erred in granting post-conviction relief on the grounds that plea counsel was ineffective for misadvising movant that he would not have to serve 85% of his sentence prior to becoming eligible for parole because counsel's advice

that he was not required to serve 85% of his sentence prior to parole eligibility was correct in that movant was not convicted of a dangerous felony under section 558.019, RSMo.

WD85886

Rachel Lynn Sanning, Appellant,

v.

Director of Revenue, State of Missouri, Respondent.

Appellant Rachel Sanning appeals the circuit court’s decision to uphold the suspension of her driving privileges. On January 31, 2022, Respondent Director of Revenue sent Sanning a Loss of Driving Privileges Notice which informed her that her driving privileges would be suspended for accumulating eight penalty points on her license. Sanning filed a petition for review in the circuit court. At the hearing on the petition, the Director of Revenue admitted into evidence Sanning’s driving record which included an entry stating that she had been assessed eight points for driving while intoxicated following a conviction by the U.S. District Court while Sanning was serving in the military in Germany. The Director of Revenue also admitted into evidence a letter notifying Missouri of the charge and sanction regarding the driving while intoxicated incident. Following the hearing, the circuit court denied Sanning’s petition for review. This appeal followed.

Appellant’s point on appeal:

1. The trial court erred when it upheld Respondent’s suspension of Appellant’s driver’s license for points based on an alleged conviction for driving while intoxicated because the trial court’s judgment was not supported by substantial evidence in that the sole evidence relied on by Respondent to enter a conviction on Appellant’s driving record and to suspend her driving privileges was a letter received by Respondent from a Provost Marshall in Germany which was legally insufficient to establish that Appellant had been “convicted” of driving while intoxicated in that it did not establish that Appellant ever pleaded guilty to, or was found guilty of, any municipal, state, county or federal offense, or that any fine or jail sentence was imposed. Appellant preserved the issues by making oral arguments at trial and by submitting post-trial arguments and proposed findings.

WD86214

State ex rel. Matthew Stone, Appellant,

v.

Missouri Commission on Human Rights, et al., Respondents.

Appellant Matthew Stone appeals the decision of the circuit court denying his writ of mandamus against the Respondent Missouri Commission on Human Rights (“MCHR”) and its executive director, Respondent Dr. Alisa Warren. As alleged to the circuit court, Stone suffered from serious back problems that necessitated multiple surgeries. Stone alleged that during his employment, his supervisor subjected him to ongoing harassment because of his disability.

Stone alleged that his supervisor eventually physically assaulted him and his company then terminated Stone three days later. Stone filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) and MCHR against his employer on June 21, 2018. On March 5, 2019, the EEOC issued a dismissal and right to sue letter regarding Stone’s complaint. On April 19, 2019, an Information and Training Coordinator with MCHR determined that Stone’s complaint lacked “probable cause.” Four days later, Stone requested a right to sue letter from MCHR. The request was more than 180 days after the filing of the complaint, and MCHR refused to issue the letter. Stone filed a petition for writ of mandamus in the circuit court on May 16, 2019. Stone contended that the MCHR did not make a legal or valid determination of his complaint because the determination was made by an unauthorized employee. The circuit court denied the petition. This appeal followed.

Appellant’s point on appeal:

1. The trial court erred in denying Relator’s petition for writ of mandamus because Relator established a clear and unequivocal right to the issuance of a right-to-sue letter in that the uncontroverted evidence established that no one at the MCHR made a valid and legal determination of probable cause.

WD86409

In the Interest of: S.D.J.C., Juvenile; Juvenile Officer, Respondent,

v.

S.E.C., Appellant.

Appellant S.E.C. appeals the judgment of the Circuit Court of Vernon County terminating her parental rights to S.D.J.C. S.D.J.C. was born on April 19, 2020. The child was taken into protective custody on November 23, 2021, because S.E.C. lacked safe mental stability. A petition to terminate S.E.C.’s parental rights was filed on June 6, 2023. The facts as alleged before the circuit court established that S.E.C. had a permanent mental condition that prevented her from properly caring for S.D.J.C. S.E.C. also had a chemical dependency, and, although her drug tests were negative following the filing of the petition to terminate her parental rights, her dependency would prevent her from properly caring for S.D.J.C. The court also found that S.E.C. had repeatedly failed to physically and financially care for S.D.J.C. The court entered judgment terminating S.E.C.’s parental rights to S.D.J.C. This appeal followed.

Appellant’s points on appeal:

1. The trial court erred in terminating the parental rights of the Appellant because the weight of the evidence was not sufficient to meet the statutory considerations for termination of parental rights as set forth in §211.447.5(2), RSMo, in that there was no evidence presented that Appellant’s mental condition was permanent or not reasonably likely to be reversed, and renders the parent unable to provide for the minor child and Appellant was receiving treatment and making improvement through treatment.
2. The trial court erred in terminating the parental rights of the Appellant because there was no substantial evidence to meet the statutory considerations for termination of parental

rights as set forth in §211.447.5(3), RSMo, in that Appellant was making progress in complying with a social service plan and towards her chemical dependency.

3. The trial court erred in terminating the parental rights of the Appellant because there was no substantial evidence to meet the statutory considerations for termination of parental rights as set forth in §211.447.5(6), RSMo, in that there was no evidence of any pattern of abuse that related to the parent child relationship.
4. The trial court erred in terminating the parental rights of the Appellant because there was no substantial evidence to meet the statutory considerations for termination of parental rights as set forth in §211.447.7, RSMo, in that no evidence was presented that there was no significant bond and, Appellant provided for the child, Appellant maintained visitation, and there were additional services available to the Appellant.
5. The trial court erred in terminating the parental rights of the Appellant because there was no substantial evidence to meet the statutory considerations for termination in that the court took judicial notice of the underlying case but not specific documents or evidence presented from the underlying case as required by law.