OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,	)	No. ED100244
	)	Appeal from the Circuit Court
vs.	)	of St. Charles County
	)	Honorable Jon A. Cunningham
DEMETRIUS A. BROWN, Appellant.	)	Filed: November 18, 2014

The defendant, Demetrius A. Brown, appeals the judgment and sentence entered by the Circuit Court of St. Charles County following his conviction by a jury of two counts of second-degree burglary, in violation of section 569.170 RSMo. (2000), and two counts of class-C felony stealing, in violation of section 570.030.3 RSMo. (Supp. 2010). The trial court sentenced the defendant as a prior and persistent offender to a total of twenty years of imprisonment.

REVERSED IN PART, MODIFIED AND REMANDED IN PART, AND AFFIRMED IN PART.

DIVISION ONE HOLDS: Because the State failed to make a submissible case on count six—second-degree burglary of the sacristy of St. Peter Catholic Church—we reverse the defendant's conviction on that count. Because the State failed to prove a value of $500 or more at the time of the offense for the television that the State charged the defendant with stealing in count seven, we amend the defendant's conviction on count seven to the lesser-included offense of class-A misdemeanor stealing pursuant to section 570.030.8 RSMo. (Supp. 2010) and remand this count to the trial court for re-sentencing.

We affirm the defendant's other two convictions: second-degree burglary of the rectory at St. Peter Catholic Church charged in count one, and stealing a credit card from St. Peter's charged in count two.

OPINION BY: Lawrence E. Mooney, J. Glenn A. Norton, J., concurs.
Clifford H. Ahrens, P.J. concurring in part and dissenting in part in separate opinion.

Attorney for Appellant: Samuel Buffaloe

Attorneys for the Respondent: Chris Koster and Andrew C. Hooper

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