

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

STATE OF MISSOURI,)	No. ED101396
)	
Respondent,)	Appeal from the Circuit Court
)	of Lincoln County
vs.)	12L6-CR00571-01
)	
JASON C. VOSS,)	Honorable Chris Kunza Mennemeyer
)	
Appellant.)	Filed: January 12, 2016

Jason C. Voss (“Defendant”) appeals the judgment and sentence entered after a jury trial convicting him of first-degree involuntary manslaughter and distribution of a controlled substance. The trial court sentenced Defendant to seven years of imprisonment and a \$5,000 fine for his involuntary manslaughter conviction and fifteen years of imprisonment for his distribution of a controlled substance conviction, with the sentences to run consecutively. On appeal, Defendant argues there is insufficient evidence to support his first-degree involuntary manslaughter conviction and that the trial court committed reversible error in admitting various portions of evidence during the penalty phase of trial.

AFFIRMED.

Division Three holds:

- (1) There is sufficient evidence to support Defendant’s first-degree involuntary manslaughter conviction based on Defendant’s involvement in the death of Douglas Geiger (“Victim”) from a heroin overdose. A reasonable juror could have found from the evidence of Defendant’s affirmative acts and omissions that he acted recklessly, i.e., consciously disregarded the risk of death to Victim and such disregard was a gross deviation from what a reasonable person would do in the circumstances of this case. In addition, a reasonable juror could have found from the evidence that Defendant’s recklessness caused Victim’s death.
- (2) The trial court erred in, (a) admitting Chris Duren’s hearsay and non-hearsay testimony in the penalty phase which contained supposed details of Defendant’s involvement in her son Brandon’s heroin overdose and death; (b) allowing Chris Duren to make a statement during the penalty phase which related to Defendant’s alleged direct involvement in her son’s heroin overdose and death; (c) allowing the prosecuting attorney and Victim’s sister, Jessica Geiger, to have an exchange during the penalty phase which directly implicated Defendant in the heroin overdoses and deaths of five persons other than Victim; and (d) allowing Defendant’s probation

officer, Missy Kruse, to testify during the penalty phase as to what she read in a police report regarding Defendant's alleged involvement in Bill Flannery's heroin overdose and death.

- (3) Despite the trial court's errors, we find there was substantial evidence presented to the jury to believe Defendant constituted a genuine threat to others and that a maximum sentence was appropriate, and we cannot conclude there is a reasonable probability that the jury would have imposed a lesser sentence but for the erroneously-admitted evidence. This is because the jury was presented with evidence regarding Defendant's admitted involvement in multiple heroin overdoses which resulted in the death of persons other than Victim, Defendant's admission that he characterized himself as a grim reaper, the nature of Defendant's crimes in this case, and victim impact evidence. The preceding evidence was properly admitted and/or unobjected to, and it is not challenged on appeal.

Opinion by: Robert M. Clayton III, P.J.
Lawrence E. Mooney, J., and James M. Dowd, J., concur.

Attorney for Appellant: Margaret M. Johnston

Attorney for Respondent: Chris Koster, Karen L. Kramer

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.