

**Missouri Court of Appeals  
Western District**

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**COMPLETE TITLE OF CASE**

STATE OF MISSOURI,

Respondent,

v.

RICHARD SHANNON SNOW,

Appellant.

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**DOCKET NUMBER WD69443**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** November 10, 2009

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**Appeal from**

The Circuit Court of Clay County, Missouri  
The Honorable Michael J. Maloney, Judge

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**APPELLATE JUDGES**

Division Three: Thomas H. Newton, C.J., and Mark Pfeiffer and Karen King Mitchell, JJ.

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**ATTORNEYS**

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Attorneys for Respondent,

William J. Swift, Assistant State Public Defender  
Columbia, MO

Attorney for Appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI,** )  
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 )  
 **Respondent,** )  
 **v.** )  
 )  
 )  
 **RICHARD SHANNON SNOW,** )  
 )  
 )  
 **Appellant.** )

WD69443

November 10, 2009

Before Division Three Judges: Newton, C.J., and Pfeiffer and Mitchell, JJ.

Richard S. Snow (Snow) appeals the trial court’s judgment convicting him, after a jury trial, of one count of possession of a controlled substance in violation of section 195.202. On appeal, he presents three points.

**AFFIRMED.**

**Division Three holds:**

In his first point on appeal, Snow claims that the trial court erred in overruling his motions to suppress the evidence of drugs and drug paraphernalia that the police seized during their search of the house because he argues that the search was a violation of his constitutional rights guaranteed under the Fourth Amendment of the United States Constitution. In denying his motions, the trial court concluded that Snow lacked standing to challenge the search. In the alternative, the trial court concluded that all of the evidence collected by the police was admissible after Snow’s father, the owner of the house where the search occurred, had consented to the search of the house. In his first point, Snow challenges both of the trial court’s conclusions. Because we agree with the trial court that Snow lacked standing to challenge the police’s search of the house, we need only address that part of his claim of error.

The record supports the trial court’s finding that Snow did not own or rent the house at 5708 Northeast Compton Avenue at the time of the police search. Snow, therefore, did not have a reasonable expectation of privacy at the house on either a subjective or objective analysis thereof. The trial court did not err in concluding that he had no standing to challenge the police’s search of the house.

In his second point, Snow claims that the trial court erred in submitting Jury Instruction

No. 8, the court's sentencing instruction, because he argues it misstated the applicable law of section 558.011 in that the instruction instructed the jury that the minimum sentence was two years, and Snow argues that the plain and ordinary wording of section 558.011 states that the minimum sentence is one year.

Snow is correct that, unless he is placed in the county jail where he can serve up to a year, the minimum sentence for the class C felony is one year. However, the plain and ordinary language of the trial court's instruction instructed the jury that it could recommend a sentence of any term from one day in the county jail to seven years in the department of corrections. The trial court, therefore, did not err in submitting Jury Instruction No. 8. Snow's point is without merit.

In his third point, Snow argues that the trial court erred in overruling his objection to the State's introduction of evidence of his prior unadjudicated bad acts during the sentencing phase of his bifurcated trial. Snow argues that the trial court misapplied the law when it concluded that the evidence was admissible as a matter of law and that the trial court had no discretion to exclude the evidence. Snow claims that the record shows that the trial court would have excluded the evidence if the trial court had understood that it had the discretion to do so.

The trial court was correct to conclude that the General Assembly and the Supreme Court have adopted a very low admissibility threshold for determining whether or not evidence of the defendant's character is helpful for the jury to assess punishment. Furthermore, contrary to Snow's argument, the trial court never concluded that the evidence of Snow's drug-dealing history was not helpful to the jury in the sentencing phase. Rather, the trial court stated that, if it were responsible for writing section 557.036.3, it would not allow the State to introduce this type of evidence. The trial court was correct to realize that it could not make evidentiary rulings based on its policy preferences. The trial court did not err in overruling Snow's objection to the State's evidence, and Snow's point is without merit.

**Opinion by: Mark Pfeiffer, Judge**

November 10, 2009

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