

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

KEYONDA ROSHELL LUMPKINS.

Appellant

DOCKET NUMBER WD71602

DATE: September 20, 2011

Appeal From:

Circuit Court of Boone County, MO
The Honorable Clifford Eugene Hamilton, Jr., Judge

Appellate Judges:

Division Three
James Edward Welsh, P.J., James M. Smart, Jr., and Joseph M. Ellis, JJ.

Attorneys:

Margaret M. Johnston, Columbia, MO Counsel for Appellant,

Attorneys:

Jamie P. Rasmussen, Jefferson City, MO Counsel for Respondent

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

**STATE OF MISSOURI, Respondent, v.
KEYONDA ROSHELL LUMPKINS, Appellant**

WD71602

Boone County

Before Division Three Judges: Welsh, P.J., Smart, and Ellis, JJ.

Keyonda Roshell Lumpkins appeals the circuit court's judgment convicting her of the class A felony of second-degree felony murder. Lumpkins contends that the circuit court erred when: (1) it denied her motion for continuance to consult with and obtain an expert; (2) it refused to give her proposed second-degree involuntary manslaughter instruction, and (3) it refused to give her proposed second-degree endangering the welfare of a child instruction.

AFFIRMED

Division Three holds:

(1) Lumpkins's motion did not satisfy Rule 24.10's requirements. Failure to comply with Rule 24.10 alone is sufficient reason to sustain the circuit court's denial of Lumpkins's application for a continuance. Moreover, Lumpkins's inadequate preparation does not justify a continuance where her counsel had ample opportunity to prepare.

(2) The circuit court did not err in refusing to give Lumpkins's involuntary manslaughter in the second-degree instruction. The circuit court properly declined to give an instruction on involuntary manslaughter in the second degree because it is not a lesser included offense of felony murder.

(3) Because endangering the welfare of a child in the second degree is not a lesser included offense of felony murder in the second degree, the circuit court did not err in refusing to give Lumpkins's endangering the welfare of a child in the second degree instruction. An instruction on the lesser-included offense of endangering the welfare of a child in the second degree was not appropriate because that possibly would have resulted in a conviction of a crime with which Lumpkins had not been charged.

Opinion by James Edward Welsh, Presiding Judge

September 20, 2011

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