

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Professional License
of Ernest W. Newton

14-PPC-41

FINAL ORDER

NOW, on this 17th day of April, 2015, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board) upon the professional license of Ernest W. Newton.

WHEREUPON, a complaint was filed by the Kansas State Department of Education and Mr. Newton had the opportunity to respond to the complaint. Mr. Newton did not respond to the complaint. The complaint and supporting evidence were reviewed by the Professional Practices Commission (Commission).

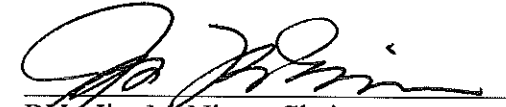
WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Calin Kendall, Chairman of the Commission, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of 10-0.

All findings set forth in the Commission's Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Ernest Newton's teaching license and any endorsements shall be revoked immediately.

This Final Order is made and entered this 17th day of April, 2015.

Kansas State Board of Education


BY: Jim McNiece, Chairman
Signed June 16, 2015

NOTICE TO APPLICANT

You may request a reconsideration of the above Order. To do so, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address stated below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

The filing of a Petition for Reconsideration is not a prerequisite for seeking judicial review.

Peggy Hill
Secretary, KSBE
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

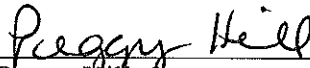
CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2015, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Ernest W. Newton
541 N. Somerset Terrance, Apt. 11
Olathe, Kansas 66062

And via interoffice mail to:

Kelli M. Broers
Attorney, Kansas State Department of Education
Landon State Office Building
900 SW Jackson Ave., Suite 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Ernest W. Newton

14-PPC-41

INITIAL ORDER

COMES NOW the Professional Practices Commission on this 26 day of February, 2015, and makes the following recommendations to the Kansas State Board of Education.

FINDINGS OF FACT

1. The Kansas State Department of Education filed a Complaint pursuant to K.A.R. 91-22-5a on November 25, 2014 [Attached as Appendix I]. That same Complaint was also mailed on November 25, 2014, by certified mail, return receipt requested, to the last known address of Ernest W. Newton. The attached certificate of service [Exhibit A] shows receipt of the Complaint.
2. Mr. Newton has been licensed by the Kansas State Board of Education from 2010 to present. There was an approximate 10-month gap in his licensure from February 18, 2013, when his initial teaching license expired, and, December 9, 2013, when his license was renewed.
3. Mr. Newton engaged in misconduct on and between September 1, 2013, and October 8, 2013, by engaging in consensual sexual conduct with a minor 16 years of age or older who was a student enrolled at the school where Mr. Newton was employed as a paraprofessional. **Exhibit 1 of the Complaint.**
4. The student was a "peer tutor" in the special education classroom where Mr. Newton was assigned as a paraprofessional. The student admitted to law enforcement that she and Mr. Newton engaged in consensual sexual intercourse on three or four occasions at two different locations. **Exhibit 2 of the Complaint.**
5. Mr. Newton was not licensed at the time of the misconduct, but did apply for a renewal of his license while under investigation. He was granted the license approximately eleven days prior to his arrest. At the time he applied for renewal, he did not disclose he was under investigation for sexual conduct with a minor student.
6. Mr. Newton's misconduct led to a November 7, 2014, conviction in the District Court of Johnson County, Kansas Case No. 13CR2912. He pled guilty to two felony counts of Aggravated Endangering of a Child in violation of K.S.A. 21-5601(b)(1). He was sentenced to an underlying prison sentence of seven months on each count. The sentences run consecutively. He was granted probation for a term of 60 months the terms of which include: 1) No contact with the minor student; 2) Registration as a Sex Offender; and 3) Following all recommendations set forth in his sex offender evaluation. **Exhibit 3 of the Complaint.**

7. Mr. Newton did not file a Request for a Hearing nor did he submit an Answer. The Complaint specifically advises that "If no answer is filed within 20 days, Applicant will be deemed to have admitted the allegations contained in the complaint and acquiesced in the proposed action. An Initial Order will be entered recommending the revocation of your teaching license and all endorsements for the reasons stated in the Complaint and that notice of the revocation will be provided to all education agencies in the State of Kansas and to the agency responsible for issuing educator licenses/certificates in each of the other states."


CONCLUSIONS

1. Pursuant to K.S.A. 72-8501, the Legislature has declared teaching and school administration to be professions in Kansas with all the similar rights, responsibilities and privileges accorded other legally recognized professions. An educator is in a position of public trust.
2. Pursuant to K.S.A. 72-1397, "The state board of education shall not knowingly issue a license to or renew the license of any person who has been convicted of:
 - (10) aggravated endangering a child, as defined in K.S.A. 21-3608a, prior to its repeal, or subsection (b) of K.S.A. 21-5601, and amendments thereto;" (Emphasis added.)
3. Any license issued by the State Board may be suspended or revoked, or the license holder may be publicly censured by the State Board for misconduct or other just cause; including the commission of any crime punishable as a felony. K.A.R. 91-22-1a.
4. If no answer to a Complaint is filed within 20 days, Applicant is deemed to have admitted the allegations contained in the Complaint and acquiesced in the proposed action. K.A.R. 91-22-9.
5. Mr. Newton waived his right to an evidentiary hearing before the Professional Practices Commission and the State Board of Education. All findings of fact are based on the non-refuted claims stated in the sworn complaint and the attached exhibits.
6. Mr. Newton's criminal conduct in engaging in sexual acts with a student 16 years old or older is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession. Such conduct violates the public trust and confidence placed in members of the profession.
7. Mr. Newton's criminal conduct also demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching profession and is sufficient and just cause for revoking Applicant's license pursuant to K.A.R. 91-22-1a.
8. Furthermore, pursuant to K.S.A. 72-1397(a)(10), Mr. Newton's conviction, as defined in K.S.A. 21-5601(b)(1), bars the Kansas State Board of Education from renewing Mr. Foster's license or issuing him a license any time in the future.

IT IS THEREFORE CONCLUDED by the Professional Practices Commission, by a vote of 8-0, subject to review by the State Board of Education, that Ernest Newton's professional teaching license should be revoked.

This Initial Order is made and entered this February 26, 2015.

PROFESSIONAL PRACTICES COMMISSION



Calin Kendall, Chairman

Order signed on 2/26, 2015.

NOTICE TO APPLICANT

This Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

You may submit to the State Board of Education for its consideration as part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. The legal brief must be filed with the Secretary of the Professional Practices Commission at the address indicated above within ten days after service of the Initial Order for transmittal to the State Board.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2015, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Ernest W. Newton
541 N. Somerset Terrance, Apt. 11
Olathe, Kansas 66062



Theresa Cote

Secretary, Professional Practices Commission

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Ernest W. Newton

14-PPC-41

APPENDIX I

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Professional License
of Ernest W. Newton

14-PPC-41

COMPLAINT

COMES NOW on this 25th day of November, 2014, Scott Myers, Director of Teacher Licensure and Accreditation, Kansas State Department of Education, 900 SW Jackson St., Topeka, Kansas 66612, and alleges the following:

1. Under Kansas law, teaching and school administration to be professions in Kansas with all the similar rights, responsibilities and privileges accorded other legally recognized professions. An educator is in a position of public trust.
2. It is within the authority of the Kansas State Board of Education to adopt rules and regulations providing for the issuance, renewal, reinstatement and revocation of a license to teach.
3. Any license issued by the Kansas State Board of Education may be suspended or revoked, or the license holder may be publicly censured by the State Board for misconduct or other just cause. K.A.R. 91-22-1a.
4. By order of the Kansas State Board of Education, the Professional Practices Commission shall investigate and conduct hearings pertaining to allegations of misconduct.
5. Ernest W. Newton has been licensed by the Kansas State Board of Education from 2010 to present. There was an approximate 10-month gap in his licensure from February 18, 2013, when his initial teaching license expired, and, December 9, 2013, when his license was renewed.
6. Mr. Newton engaged in misconduct on and between September 1, 2013, and October 8, 2013, by engaging in consensual sexual conduct with a minor 16 years of age or older and a student enrolled at the school where Mr. Newton was employed as a paraprofessional. (Exhibit 1).
7. The student was a "peer tutor" in the special education classroom where Mr. Newton was assigned as a paraprofessional. The student admitted to law enforcement that she and Mr. Newton engaged in consensual sexual intercourse on three or four occasions at two different locations. (Exhibit 2).
8. Mr. Newton was not licensed at the time of the misconduct, but did apply for a renewal of his license while under investigation. He was granted the license approximately eleven days prior to his arrest. He did not disclose he was under investigation for sexual conduct with a minor student at the time he applied for renewal.

9. Mr. Newton's misconduct led to a November 7, 2014, conviction in the District Court of Johnson County, Kansas Case No. 13CR2912. He pled guilty to two felony counts of Aggravated Endangering of a Child in violation of K.S.A. 21-5601(b)(1). He was sentenced to an underlying prison sentence of seven months on each count. The sentences run consecutively. He was granted probation for a term of 60 months the terms of which include: 1) No contact with the minor student; 2) Registration as a Sex Offender; and 3) Following all recommendations set forth in his sex offender evaluation. (Exhibit 3).
10. Mr. Newton's conduct is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession. Such conduct violates the public trust and confidence placed in members of the profession. Furthermore, Mr. Newton's conduct demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching and school administration professions.
11. Mr. Newton's convictions pursuant to K.S.A. 21-5601(b)(1) are grounds for revocation of his license pursuant to K.A.R. 91-22-1a and K.S.A. 72-1383.

NOTICE

Pursuant to K.A.R. 91-22-1a(h) and K.S.A. 77-512, notice is hereby given of this Complaint and Request for Revocation of Licensee's professional teaching license.

RIGHT TO A HEARING


Applicant has a right to request a hearing on the above issues and request for denial in accordance with the provisions of the Kansas Administrative Procedures Act. To obtain a hearing, a written request for a hearing must be filed with the Secretary of the Professional Practices Commission within fifteen [15] days of the date of service of this notice at the following address:

Theresa Coté
Secretary, Professional Practices Commission
Kansas State Department of Education
900 SW Jackson St.
Topeka, Kansas 66612-1182

Applicant has a right to file a written answer to this complaint. Applicant has twenty [20] days from the date of service of this notice. If no answer is filed within 20 days, Applicant will be deemed to have admitted the allegations contained in the complaint and acquiesced in the proposed action. An Initial Order will be entered recommending the revocation of your teaching license for the reasons stated in the Complaint and that notice of the revocation will be provided to all education agencies in the State of Kansas and to the agency responsible for issuing educator licenses/certificates in each of the other states.

Any answer shall type written or legibly printed, and any documents you intend to use in your defense must be attached. The answer must be signed and contain a statement under oath or

affirmation that the statements made in the Answer are true. The Answer must be notarized and filed with the Secretary of the Professional Practices Commission by certified mail, return receipt requested, or by personal delivery to the address listed above.

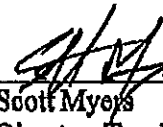


Scott Myers
Director, Teacher Education and Licensure

VERIFICATION

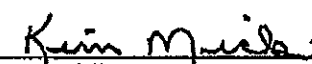
STATE OF KANSAS)
) SS:
COUNTY OF SHAWEE)

Scott Myers, of lawful age, being first duly sworn, on oath deposes and states: He is the Complainant in the above-captioned action; he has read the above and foregoing Complaint knows and understands the contents thereof, and the statements and allegations contained therein are true and correct, according to his knowledge, information, and belief.



Scott Myers
Director, Teacher Education and Licensure

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this 25th day of November, 2014.



Notary Public

My appointment expires: _____



CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of November, 2014, a true and correct copy of the above and foregoing Complaint/Notice of hearing was filed with the Secretary for the Professional Practices Commission and one (1) copy was mailed by certified mail, return receipt requested, to:

Ernest W. Newton
541 N. Somerset Terrance, Apt. 11
Olathe, Kansas 66062

Cheryl Martin
Cheryl Martin
Teacher Education and Licensure

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

STATE OF KANSAS,
Plaintiff,

VS.

COMPLAINT

Case No.

ERNEST WAYNE NEWTON,
Defendant.

STATE OF KANSAS, JOHNSON COUNTY, ss:

I, Erika N. DeMarco, Assistant District Attorney of said County, being duly sworn on oath state to the Court that

ERNEST WAYNE NEWTON

did the following:

COUNT I - That on and between the 1st day of September, 2013, and the 8th day of October, 2013, in the County of Johnson, State of Kansas, ERNEST WAYNE NEWTON did then and there unlawfully, willfully and feloniously engage in consensual sexual intercourse with a person, to wit: M.C. (XX/XX/1995), who was not married to ERNEST WAYNE NEWTON, while ERNEST WAYNE NEWTON was a teacher or other person in position of authority and M.C. (XX/XX/1995) was 16 years of age or older and a student enrolled at the school where ERNEST WAYNE NEWTON was employed, a severity level 5 person felony, in violation of K.S.A. 21-5512(a)(9), K.S.A. 21-6804 and K.S.A. 21-6807. (unlawful sexual relations)

I declare under penalty of perjury that the foregoing is true and correct.

Executed by and on this date.

/s/ ERIKA N DEMARCO
Dated: 12/20/13

Erika N. DeMarco/drh #22584
Assistant District Attorney
P.O. Box 728
Olathe, Kansas 66061-0728
(913) 716-3000

WITNESSES:

M.C. (XX/XX/1995)
Molly Sharp
Officer Balderson
Officer Neal
Detective Schreiber

Scott Roberts
Caressa Branick
Kristi Dixon
Detective Twaddle



Clerk of the District Court, Johnson County Kansas
12/20/13 09:50am JL

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
Criminal Department

State of Kansas
Vs,
ERNEST WAYNE NEWTON, Defendant

INITIATION OF ACTION

Offense(s) Alleged:
21-5512 (b) (2) UNLAWFUL SEXUAL RELATIONS

X The Court finds from the complaint and affidavit that there is probable cause to believe both that a crime has been committed in Johnson County, Kansas and that the defendant committed the same.

X Therefore a warrant is ordered to be issued for the arrest of the above-named defendant.

Defendant's bond is set at \$50,000 cash or surety with the following conditions:

NO USE OF ILLEGAL DRUGS OR CONTROLLED SUBSTANCES/SUBMIT TO TESTING
WHEN DIRECTED BY COURT

NO ALCOHOL

NO CONTACT VICTIM(S)/WITNESSES, THEIR RESIDENCE/ EMPLOYMENT
WHETHER OR NOT THEY POST BOND

/s/ DANIEL W VOKINS
12/20/13
Judge of the District Court

Clerk of the District Court, Johnson County Kansas
12/20/13 09:50am JL

IN THE TENTH JUDICIAL DISTRICT
DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CRIMINAL DEPARTMENT

STATE OF KANSAS,

Plaintiff,

vs.

Case No. 13CR2912

ERNEST W. NEWTON,

Defendant.

MOTION TO DISMISS

COMES NOW the above named Defendant, by and through his attorney, Paul D. Cramm and hereby moves this Court for an Order dismissing the charge herein. Defendant submits this motion pursuant to K.S.A. 22-3208(4). In support of said motion, Defendant alleges and states as follows:

FACTUAL BACKGROUND

1. On the 20th day of December, 2013, the State of Kansas filed herein the subject Complaint against the Defendant alleging a single count of Unlawful Sexual Relations in violation of K.S.A. 21-5512(a)(9). Specifically, the State of Kansas alleges that between the 1st day of September, 2013 and the 8th day of October, 2013, the Defendant, Mr. Ernest Newton engaged in consensual sexual intercourse with M.C. who was not married to Mr. Newton while Mr. Newton was a "teacher or other person of authority and M.C. was 16 years of age or older and a student enrolled at the school where (Mr. Newton) was employed."

2. The charges arise from an investigation initiated on or about October 8, 2013 when a student at Blue Valley Southwest (M.S.) reported to school faculty that she believed her friend M.C. had engaged in sexual intercourse with Mr. Newton. At the time of the alleged sexual activity, Mr. Newton was employed by the school district as a 'paraprofessional' in the

CLERK OF DISTRICT COURT
JOHNSON COUNTY, KS

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severely mentally disabled classroom. M.C. was a senior and served as a 'peer tutor' in the classroom where Mr. Newton was assigned as a 'paraprofessional.' On information and belief, M.C.'s duties as 'peer tutor' were limited to assisting with lunch service for the class and she spent less than one hour per day in the classroom during the lunch period.

3. The Kansas State Department of Education, does not require 'paraprofessionals' to hold a professional teaching license with the Kansas State Board of Education. At the time Mr. Newton was employed as a 'paraprofessional' for the Blue Valley School District, he did not hold a current professional teaching license with the Kansas State Board of Education.

4. During the course of the investigation, law enforcement interviewed M.C. on 2 separate occasions: October 8 and October 23, 2013. Although initially hesitant to provide information about her relationship with Mr. Newton, M.C. did confirm that she had consensual sexual intercourse with Mr. Newton on 3 or 4 occasions at 2 different locations in Johnson County, Kansas. However, M.C. denied having any sexual physical contact with Mr. Newton on school property or during school hours. M.C. also told law enforcement during the October 8 interview that "Mr. Newton attempted to stop the sexual contact they were having, but she (M.C.) pressed the issue."

5. During the interview of October 23, M.C. admitted to law enforcement that she told Mr. Newton that she was 18 years of age when she was, in fact, 17 years of age. Additionally, M.C. stated that she did not look at Mr. Newton as an "authority figure" and explained that "Ms. Forester was the 'actual teacher' of the classroom." M.C. elaborated: "[w]e're not really supposed to really [sic] consider the paras our teacher, they're more of just guides, and so they can't really give us any direction, it's more of Ms. Forester who gives us direction."

6. Later during the interview of October 23, M.C. explained: "I never looked at him (Mr. Newton) as an authority figure, he never gave me any direction that made me feel like he was my teacher ... I never felt like I had to answer to him or I was obligated to do anything he told me to." M.C. continued: "You know, if he was my chemistry teacher, and I felt like, you know, if I could sleep with him my grade would go up a little bit, then I think that would be wrong ... [but] he has no power over my grade in that class." M.C. concluded the October 23 interview by stating: "[I]f he (Mr. Newton) had Ms. Forester's position, the teacher of the class, he probably should have been charged, because then he would have been my teacher, he would have authority over me, power over me, but the way his job was set up he never did."

BASIS FOR DISMISSAL

7. K.S.A. 21-5512(a)(9) - Unlawful Sexual Relations prohibits sexual relations between "a teacher or person in a position of authority" and "a student enrolled at the school where the offender is employed." *Infra*. K.S.A. 21-5512(d)(9) defines "teacher" as "teachers, coaches, supervisors, principals, superintendents and any other professional employee" of the school. *Id.*

8. Ernest Newton's employment in a non-licensed, non-professional capacity as a 'paraprofessional' fails to satisfy the statutory definition of "teacher or person in a position of authority." Therefore, Mr. Newton is not subject to prosecution under K.S.A. 21-5512.

ARGUMENTS AND AUTHORITIES

I. Motion To Dismiss

9. K.S.A. 22-3208 addresses the filing of a Motion to Dismiss a complaint in a criminal proceeding. Specifically, subsection (2) provides that, "any defense or objection which is capable of determination without the trial of the general issue may be raised before trial by

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motion." Pursuant to subsection (3) of 22-3208, "[d]efenses and objections based on defects in the institution of the prosecution or in the complaint, information or indictment other than that it fails to show jurisdiction in the court or to charge a crime may be raised only by motion before trial."

II. Unlawful Sexual Relations

10. K.S.A. 21-5512 - Unlawful Sexual Relations prohibits otherwise voluntary and consensual sexual relations between persons in limited, specific professional environments. It is clear from the language of the statute that the legislature intended to prohibit sexual relations between persons in a position of authority and those subject to said authority due to the inherent disparity of said relationships. For example, the statute prohibits sexual relations between a jailer and an inmate as well as sexual relations between a probation officer and probationer.

11. K.S.A. 21-5512(a)(9) addresses sexual relations in the education environment and prohibits "engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with a person who is not married to the offender if the offender is a teacher or other person in a position of authority and the person with whom the offender is engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy is a person 16 years of age or older who is a student enrolled at the school where the offender is employed." Subsection (d)(9) of K.S.A. 21-5512 provides: "as used in this section 'teacher' means and includes teachers, coaches, supervisors, principals, superintendents and any other professional employee in any public or private school offering any of grades kindergarten through 12." (Emphasis added).

12. By contrast, K.S.A. 21-5512(a)(1) addresses sexual relations in the corrections environment and prohibits such relations between "an employee or volunteer of the department of corrections or the employee or volunteer of a contractor who is under contract to provide

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services for a correctional institution" and an inmate. Similarly, K.S.A. 21-5512(a)(2) prohibits sexual relations between "a parole officer, volunteer for the department of corrections or the employee or volunteer of a contractor who is under contract to provide supervision services" and persons on parole, conditional release or post-release supervision.

13. In stark contrast to K.S.A. 21-5512(a)(9) which applies only to certain - but not all - employees of a school (teachers, coaches, supervisors, principals, superintendents and any other professional employee, i.e. 'persons in a position of authority'), subsections (a)(1) and (a)(2) apply to all 'employees' of the department of corrections and make no distinction between 'professional employees' or 'persons in a position of authority' and non-professional employees or those who do not hold a 'position of authority' within the department.

14. Similarly, subsections (a)(3) and (a)(4) prohibit sexual relations between law enforcement officers and those in their custody or charge at the adult and juvenile levels. These subsections specifically include "an employee of a jail, or the employee of a contractor who is under contract to provide services in a jail" and any person confined to such facility. Similarly, subsections (a)(5) and (a)(6) prohibit sexual relationships between "an employee of the juvenile justice authority or the employee of a contractor who is under contract to provide services in a juvenile correctional facility" and any person confined to such facility.

15. Again, in stark contrast to K.S.A. 21-5512(a)(9) which applies only to "teachers and persons in a position of authority," (teachers, coaches, supervisors, principals, superintendents and any other professional employee), subsections (a)(3), (a)(4), (a)(5) and (a)(6) apply to all 'employees' of a jail or juvenile detention facility and make no distinction between 'professional employees' or 'persons in a position of authority' and non-professional employees who do not hold a 'position of authority' in said facilities.

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16. Subsection (a)(7) prohibits sexual relations between "an employee of the department of social and rehabilitation services or the employee of a contractor who is under contract to provide services in a social and rehabilitation services institution or to the department of social and rehabilitation services" and patients or other persons in the custody of the secretary of social and rehabilitation services. Finally, subsections (a)(10) and (a)(11) prohibit sexual relations between "a court services (or community corrections) officer or the employee of a contractor who is under contract to provide supervision services for persons under court services (or community corrections) supervision" and persons subject to such supervision.

17. Once again, subsections (a)(7), (a)(10) and (a)(11) apply to all employees of the respective agencies and make no distinction between 'professional employees' or 'persons in a position of authority' and non-professional employees who do not hold a position of authority. This is in stark contrast to subsection (a)(9) which as written applies only to "teachers, coaches, supervisors, principals, superintendents and any other professional employee," i.e. "persons in a position of authority" within the school district.

III. Statutory Interpretation

18. The Kansas Supreme Court has acknowledged that "[t]he fundamental rule of statutory construction guiding this court's determination is that the intent of the legislature governs when that intent can be ascertained from the statute. When a statute is plain and unambiguous, we must give it the effect intended by the legislature rather than determine what the law should or should not be." *State v. Taylor*, 262 Kan. 471, 478, 939 P.2d 904 (1997).

19. Moreover, "[w]hen construing criminal statutes, it is well settled that such statutes must be strictly construed in favor of the accused. Any reasonable doubt about meaning is decided in favor of anyone subjected to the criminal statute. The rule of strict construction,

however, is subordinate to the rule that judicial interpretation must be reasonable and sensible to effect legislative design and intent." *State v. Pollard*, 273 Kan. 706, 710-711, 44 P.3d 1261 (2002).

20. As written, K.S.A. 21-5512 (a)(9) and (d)(9) prohibit sexual relations between a student of at least 16 years of age and "a teacher or other person in a position of authority" over said student. The statute does *not* prohibit otherwise voluntary and consensual sexual relations between a student of at least 16 years of age and a *non*-professional employee of a school who does *not* hold a "position of authority" over said student. Had the legislature intended 21-5512(a)(9) to apply to all employees of a school - regardless of professional capacity or relative position of authority - the legislature would have simply used the word "employees" with no limitation in subsection (a)(9) of the statute.

21. By contrast, the legislature did use the general and all-encompassing word "employee" *without* use of the limiting adjective 'professional' and with *no* limiting reference to 'position of authority' in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(10) and (a)(11) of K.S.A. 21-5512. By specifically using the general and all-encompassing word "employee" in the foregoing subsections of the statute without limitation while specifically *avoiding* similar use of the word "employee" in subsection (a)(9), it is evident that the legislature did *not* intend to criminalize an otherwise voluntary and consensual relationship between a student of at least 16 years of age and a *non*-professional employee of the school who did *not* hold a 'position of authority' over the student.

IV. Ernest Newton's Formal Title Job Description

22. At the time of the subject events, Ernest Newton was employed by the Blue Valley School District as a "Special Education Para Educator." The school district refers to this

SECRET - 201-200-101-101-101

position as "paraprofessional." As set forth by the Kansas State Department of Education, 'paraprofessionals' are not required to hold a professional teaching license with the Kansas State Board of Education. Although Mr. Newton did at one time hold a professional teaching license with the Kansas State Board of Education, his license had expired prior to the time Mr. Newton was employed as a 'paraprofessional' for the Blue Valley School District. (Exhibit A)

23. Among the "Essential Functions" of a Special Education Para Educator as set forth by the Blue Valley School District are that the paraprofessional: 'adapts, modifies and provides accommodations of classroom activities, assignments and/or materials *under the direction of the teacher ...*; implements educational and behavioral programming *under the supervision of the classroom certified staff ...*; implements behavioral plans for students *... under the direction of certified staff ...*; instructs students in a variety of activities *... under the direction of certified staff.*' Responsibilities for this position involve '*working under direct supervision*' and '*providing information and/or advising others.*' (Exhibit A)

24. Based on the foregoing, it is clear that the role of paraprofessional at the Blue Valley School District is one devoid of authority. Not only does the paraprofessional have no authority over individual students, the paraprofessional does not have the authority to engage in any activity without the direction or supervision of the teacher or certified classroom staff. By very definition as well as in practice, the paraprofessional is not a "professional employee" of the school district and is not a "person in position of authority" as required by statute.

CONCLUSION


25. K.S.A. 21-5512(a)(9) applies to a "teacher or other person in a position of authority." Pursuant to subsection (d)(9) of K.S.A. 21-5512, "teacher means and includes teachers, coaches, supervisors, principals, superintendents, and any other professional

2014-08-22 10:15 AM

employee." It is clear that based upon Mr. Newton's job title and description, he did not serve as a 'teacher, coach, supervisor, principal or superintendent' as defined by statute. Moreover, because the formal job description for "Special Education Para Educator" does not require professional licensure, and because Mr. Newton did not hold a current, valid license with the Kansas State Board of Education at the time of the operative events, he did not serve as a 'professional' employee of the school district. Finally, because the position of paraprofessional has no authority to act without the direction or supervision of the teacher or certified classroom staff, Mr. Newton was not a 'person in a position of authority' over M.C. Therefore, Mr. Newton is not subject to prosecution under K.S.A. 21-5512.


WHEREFORE the Defendant respectfully asks this court to dismiss the charges herein with prejudice.

Respectfully submitted,

BY 
Paul D. Cramm #19543
PAUL D. CRAMM, CHARTERED
7450 W. 130th Street, Suite 305
Overland Park, KS 66213
Telephone: (913) 322-3265
Facsimile: (913) 322-4371
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on this 27th day of February, 2014 a copy of the above and foregoing was hand delivered to Assistant District Attorney Erika N. DeMarco, Johnson County District Attorney's Office, P.O. Box 728, Olathe, KS 66051, Clerk's Box #317.

BY 
Paul D. Cramm
ATTORNEY FOR DEFENDANT

SCAN DATE 2014-02-27 10:52

Degrees Earned
ES 10

Kansas State Board of Education

120 S.E. 10th Avenue, Topeka, Kansas 66612-4182

LICENSE

This license is granted to

Ernest Wayne Newton

In accordance with Kansas State Statutes and Regulations of the Kansas State Board of Education.

LICENSE NUMBER: 6424429638

INITIAL TEACHING LICENSE

EFFECTIVE: 02/18/2011 EXPIRATION: 02/18/2013

RENTH
PHYSICAL EDUCATION

PKB-12
PKB-12

RENEWAL REQUIREMENTS

EFFECTIVE: 04/08/2011 INITIAL TEACHING LICENSE: To renew by a professional license:
EFFECTIVE: 02/18/2012 Verification of completion of the prescribed teaching performance assessment during this initial license. OR

To obtain an additional initial license: If within five years of date of issuance of this initial, submit application for this license. If more than five years of date of issuance of this initial, submit application and verify ONE of the following:

1. Passing scores for the appropriate content assessment(s) AND the Principles of Learning and Teaching, taken less than one year ago. OR

2. Completion of at least 30 hours of recent credit, including the assessment(s) on the Initial License OR

3. Completion of professional development activities in your initial endorsement(s) area OR

4. Completion of professional development activities as mandated by a Kansas local professional development council: 150 including at least 30 points for college credit or 120 with advanced degree OR

5. A 90-day continuing (or equivalent) program to add a new teaching, school specialist or leadership endorsement. During this license period, you pay no fee on 8 of the semester credit hours you complete as part of the program.

NOTE: Failure to complete the prescribed performance assessment during four years of accredited coursework under initial license results in denial of access to additional initial licenses. Additional licenses cannot thereafter be accessed by completing additional credit hour requirements and an unpaid supervised internship.

Failure to complete the prescribed performance assessment during four years of accredited coursework under initial license results in denial of access to additional initial licenses. Additional licenses cannot thereafter be accessed by completing additional credit hour requirements and an unpaid supervised internship.

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Failure to complete the prescribed performance assessment during four years of accredited coursework under initial license results in denial of access to additional initial licenses. Additional licenses cannot thereafter be accessed by completing additional credit hour requirements and an unpaid supervised internship.

Janet Coleman
DIRECTOR OF LICENSE

David W. Bechtel
COMMISSIONER OF EDUCATION

A KANSAS EDUCATOR CANNOT LEGALLY BE PAID UNLESS THE EDUCATOR HOLDS A LICENSE WHICH IS VALID IN THE STATE OF KANSAS FOR THE PARTICULAR KIND OF WORK TO BE PERFORMED.
(K.S.A. 72-1330)

SCAN DATE 2014/02/27 10:55

EXHIBIT "A"



Blue Valley School District
Human Resources

February 21, 2014

Paul D. Cramm
7450 W. 130th Street, Suite 305
Overland Park, KS 66213

Mr. Cramm,

Yes, the job description that you attached to your letter dated February 19, 2014, is the correct job description for the position previously held by Ernest Wayne Newton during the short time he was employed by Blue Valley School District.

Regards,

Dr. Scott McWilliams
Executive Director-Human Resources
Blue Valley School District

SCAN DATE 2014/02/27 10:55

EXHIBIT "B"

Job Description
Blue Valley School District

Special Education Para Educator - FOCUS

Purpose Statement

The job of Special Education Para Educator - FOCUS is done for the purpose/s of assisting in the supervision, care and instruction of special needs students in the regular classroom or in a self-contained classroom; assisting in implementing plans for instruction; monitoring student behavior; assisting students by meeting special health care needs and developing students' daily living and behavioral skills; providing information to appropriate school personnel; and performing classroom clerical tasks.

Essential Functions

- Adeptly, modifies and provides accommodations of classroom activities; assignments and/or materials under the direction of the teacher for the purpose of providing an opportunity for special education students to actively participate in classroom activities.
- Aids students in and out of classroom (e.g. packing backpacks, note taking, relationship building, field trips, social skills, etc.) for the purpose of providing assistance to students' needs and social growth.
- Assists with medical and/or nurse delegated procedures (e.g. tube feeding, tracheotomy suctioning, toileting, diapering, seizure protocol, etc.) for the purpose of providing appropriate care for medically fragile students.
- Assists students requiring support in addressing personal care needs due to medical condition and/or physical limitations (e.g. lavatory, nutritional, etc.) for the purpose of allowing students to function in the school environment.
- Attends meetings and in-service presentations for the purpose of acquiring information for the appropriate care for medically fragile students.
- Attends meetings and in-service presentations (e.g. education strategies, specific disability education, etc.) for the purpose of acquiring and/or conveying information relative to job functions to meet established annual State requirements.
- Collaborates with staff for the purpose of providing necessary support and information related to the student's progress as established in their Individual Educational Program.
- Implements educational and behavioral programming under the supervision of the classroom certified staff for the purpose of developing new skills for students.
- Implements behavioral plans for students as designed by the IEP team for the purpose of assisting in meeting special education students' needs and providing a consistent environment under the direction of certified staff.
- Instructs students in a variety of activities in individual and group settings (e.g. academic subjects, social skills, daily living skills, etc.) for the purpose of meeting Individual Educational Program goals under the direction of certified staff.
- Maintains instructional materials and data sheets for the purpose of ensuring availability of instructional materials and/or providing reliable information regarding student progress.
- Monitors students during assigned periods within a variety of school environments (e.g. rest rooms, playgrounds, hallways, bus loading zones, fire drills, assemblies, cafeteria, parking lots, etc.) for the purpose of providing a safe and positive environment conducive to learning.

SCBI DATE 2014/02/27 10:56

Performs various administrative support and record keeping functions for the purpose of providing documentation in conformance with established State and Federal program standards.

Other Functions

Performs other related duties, as assigned, for the purpose of ensuring the efficient and effective functioning of the work unit.

Job Requirements: Minimum Qualifications

Skills, Knowledge and Abilities

SKILLS are required to perform multiple tasks with a potential need to upgrade skills in order to meet changing job conditions. Specific skill based competencies required to satisfactorily perform the functions of the job include: adhering to safety practices; operating standard office equipment including using pertinent software applications; preparing and maintaining accurate records; and using district approved crisis intervention techniques.

KNOWLEDGE is required to perform basic math; read and follow instructions; and understand complex, multi-step written and oral instructions. Specific knowledge based competencies required to satisfactorily perform the functions of the job include: instructional procedures and practices; age appropriate student activities; safety practices and procedures; conflict resolution; and stages of child development/behavior; and safe handling of blood-borne pathogens and crisis de-escalation techniques.

ABILITY is required to schedule activities and/or meetings; gather and/or collate data; and use job-related equipment. Flexibility is required to work with others in a wide variety of circumstances; work with data utilizing defined but different processes; and operate equipment using standardized methods. Ability is also required to work with a diversity of individuals and/or groups; work with a variety of data; and utilize a variety of job-related equipment. Problem solving is required to analyze issues and create action plans. Problem solving with data may require independent interpretation; and problem solving with equipment is limited to moderate. Specific ability based competencies required to satisfactorily perform the functions of the job include: adapting to changing work priorities; communicating with diverse groups; maintaining confidentiality; working as part of a team; and working with constant interruptions.

Responsibility

Responsibilities include: working under direct supervision using standardized procedures; providing information and/or advising others; utilization of some resources from other work units may be required to perform the job's functions. There is some opportunity to impact the organization's services.

Work Environment

The usual and customary methods of performing the job's functions require the following physical demands: significant lifting, carrying, pushing, and/or pulling, some climbing and balancing, some stooping, kneeling, crouching, and/or crawling and significant fine finger dexterity. Generally the job requires 30% sitting, 35% walking, and 35% standing. The job is performed under minimal temperature variations and under conditions with exposure to risk of injury and/or illness.

Experience: Job related experience is desired.

Education: Targeted, job related education with study in job-related area.

Equivalency:

Required Testing

Continuing Edu. / Training

Up to 20 hours annually of in-service training

Certificates and Licenses

Clearances

Criminal Justice Fingerprint/Background Clearance
Kansas Certification of Health

FLSA Status
Non Exempt

Approval Date
3/26/2011

Salary Grade
INST 6

For Court Use Only (Seal)

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT
PLEASE USE FOR CRIMES COMMITTED ON JULY 1, 2013 - JUNE 30, 2014

SECTION I. CASE IDENTIFYING INFORMATION		1. Transaction No.	
2. STATE v. <u>Ernest Wayne Newton</u>		<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	3. Court C.R.I. Number <u>KS046016J</u>
4. County <u>JOHNSON</u>		5. Court Case Number <u>13CR2912</u>	6. Sentencing Judge <u>Hon. Thomas Kelly Ryan</u>
7. Defense Counsel: <input type="checkbox"/> Appointed <input checked="" type="checkbox"/> Retained <input type="checkbox"/> Self <input type="checkbox"/> Waived Orally <input type="checkbox"/> Waived In Writing		8. Sentencing Date <u>11/7/14</u>	
10. Type of Proceeding (Trial) <input type="checkbox"/> Bench Trial (includes a plea on stipulated facts) <input type="checkbox"/> Jury Trial <input checked="" type="checkbox"/> Guilty Plea <input type="checkbox"/> Nolo contendere Plea			
11. Date of Conviction: <u>9/19/14</u>			
12. Pre-Trial Status of Offender <input type="checkbox"/> In Custody <input checked="" type="checkbox"/> Released on Bond <input type="checkbox"/> Other Release			
SECTION II. CRIMINAL HISTORY CLASSIFICATION			
1. Offender's Overall Criminal History Classification as Found by the Court: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H <input checked="" type="checkbox"/> I			
2. Objection to Criminal History? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, By: <input type="checkbox"/> Defendant or <input type="checkbox"/> State Court's Ruling on Objection: <input type="checkbox"/> Criminal history was amended <input type="checkbox"/> Criminal history was not amended			
SECTION III. CURRENT CONVICTION INFORMATION			
1. Name of PRIMARY Offense of Conviction: <u>Aggravated Endangering of a Child</u> Count No.: <u>I</u> Date of Offense: <u>9/1/13-10/8/13</u> <input type="checkbox"/> Designated by court as domestic violence case based upon special finding (see #14 this section)			
2. If Drug Offense: (Indicate statute for controlled substance) <input type="checkbox"/> 65-4105 <input type="checkbox"/> 65-4107 <input type="checkbox"/> 65-4109 <input type="checkbox"/> 65-4114 <input type="checkbox"/> 65-4113 Name of Drug: _____ Amount of Drug (if Distribution Offense): _____			
3. K.S.A. Title, Section, Subsection(s): <u>21-5601(b)(1)</u> <input type="checkbox"/> Attempt (K.S.A. 2012 Supp. 21-5301) <input type="checkbox"/> Conspiracy (K.S.A. 2012 Supp. 21-5302) <input type="checkbox"/> Solicitation (K.S.A. 2012 Supp. 21-5303)			
4. Grade of Offense: (Check one in each row) <input checked="" type="checkbox"/> Felony, Severity Level <u>9</u> <input type="checkbox"/> Misdemeanor, Class _____ <input checked="" type="checkbox"/> Person <input type="checkbox"/> Nonperson			
5. Offense Category: <input checked="" type="checkbox"/> Nondrug <input type="checkbox"/> Drug <input type="checkbox"/> Off-grid <input type="checkbox"/> Nongrid			
6. Presumptive Sentencing Range: (Enter terms from appropriate grid.) Aggravated <u>7</u> Standard <u>6</u> Mitigated <u>5</u> Check applicable box(es) <input type="checkbox"/> Presumptive Prison <input checked="" type="checkbox"/> Presumptive Probation <input type="checkbox"/> Border Box <input type="checkbox"/> Drug Treatment for up to 18 months, K.S.A. 2012 Supp. 21-6824 <input checked="" type="checkbox"/> Special Rule Applies (Complete Special Rules Supplemental Page and Attach)			

THIS FORM MUST BE ACCOMPANIED BY A COPY OF THE PRESENTENCE INVESTIGATION FORM PURSUANT TO K.S.A. 2012 Supp. 22-3439 AND A DOCUMENT CONTAINING INFORMATION REQUIRED BY K.S.A. 2012 Supp. 22-3426. PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION.

CLERK OF DISTRICT COURT
JOHNSON COUNTY, KS

2014 NOV. 10. AM 9:06.



SCM DATE 2014/11/12 11:17

Case No. 13CR0912

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

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7. SPECIAL RULE APPLICABLE: Yes No If Yes, enter the number(s) and brief description(s) corresponding to the applicable special rule. (Complete Special Rules Supplemental Page and Attach): #35 - Agg. Endangering of a Child

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to the ~~KRS~~ Offender Registration Act
a. Did the court make a special finding that the crime was sexually motivated? Yes No
b. IF YES to 8a, did the court find that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2012 Supp. 22-4902(b)(16)) Yes No
c. IF YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.

9. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2012 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

10. Is offender being sentenced pursuant to K.S.A. 2012 Supp. 21-6627 where offender is 18 years of age or older and the victim is less than 14 years of age? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

11. Downward departure (K.S.A. 2012 Supp. 21-6816(a)) for a crime of extreme sexual violence (K.S.A. 2012 Supp. 21-6816)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

12. Did offender, as determined by the court, commit the current crime with a deadly weapon? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

13. Was offender convicted of a violation of K.S.A. 2012 Supp. 21-6703, Manufacture or attempted manufacture; K.S.A. 2012 Supp. 21-6705(a)(1), Cultivation, Distribution, Possession w/ Intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), (f)(1); or K.S.A. 2012 Supp. 21-6708(a), Possession of precursors w/ Intent to manufacture? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. (personal use exemption eliminated effective July 1, 2011) Yes No

14. Determination of domestic violence case designation
14a. Did offender, as determined by the trier of fact, commit a domestic violence offense?
14b. If YES to 14a above, did the court find that offender had no prior domestic violence conviction or diversion, AND that offender did not use the present domestic violence offense to coerce, control or punish the victim?
14c. IF YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX. Yes No
 Yes No
 DV Case

SENTENCE IMPOSED: 7 months

1. Guideline Range Imposed: Aggravated Standard Mitigated Departure - COMPLETE SECTION IV

2. Prison Term: KDOD 7 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
** or Underlying with KDOD Drug Trnmt Prog. (min. 120 days)
 Enhancement Sentence- Drug with Firearm: 6 months 18 months (K.S.A. 2012 Supp. 21-6806(g))
Ballistic Resistant Material: 30 months (K.S.A. 2012 Supp. 21-6804(l))
 Off-grid Crime:
 Life - Minimum 15 yrs. Life - Minimum 20 yrs. Hard 25 Hard 40 Hard 50
 Mandatory minimum years = 50 years (600 months) or ___ months pursuant to guidelines, given offender's criminal history, whichever is greater
 Life Imprisonment without Parole Death Penalty

3. Postrelease Supervision Term: 12 months 24 months 36 months 60 months (sex offenses) - COMPLETE SECTION IV
 Lifetime Postrelease No Postrelease K.S.A. 2012 Supp. 22-3716(e) (not applicable to crimes committed on or after July 1, 2013)

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6804(p))

5. Nongrid Term: (Jail) (For misdemeanor or nongrid felony) ___ months ___ days
(Enter county jail term above then check one of the following) Jail sentence imposed or Underlying with probation granted.
 3rd D.U.I. 4th & Subs. D.U.I. 2nd Test Refusal 3rd & Subs. Test Refusal
D.U.I. or Test Refusal Supervision (12 months) Court Services Community Corrections
 3rd & Subs. Domestic Battery w/in 5 yrs. Animal Cruelty
 Probation granted after serving term of ___ months ___ days
 Assignment to a work release program (K.S.A. 2012 Supp. 21-6804 (e)(11))

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KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

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6. Probation Term (If Granted): 12 months 18 months 24 months 36 months 60 months

Drug Treatment for up to 18 months, K.S.A. 2012 Supp. 21-6824 Other: _____

Extended Period K.S.A. 2012 Supp. 21-6808(o)(6) for 60 months

Probation Supervision to: Court Services Community Corrections Unsupervised

County Jail Time Imposed AS A CONDITION OF PROBATION: _____ days

** Assignment to Correctional Conservation Camp

Withheld authority of court services/community corrections to impose intermediate sanction pursuant to K.S.A. 2013 Supp. 21-8804(a) or (l)

Comments: Defendant may request early termination of probation after 60 months, but State may oppose

SECTION IV. DEPARTURE INFORMATION

1. Type of Departure: (Check all that apply.)

Downward Durational Upward Durational Downward Dispositional Upward Dispositional

Postrelease Supervision (up to 60 months for sexually motivated offense) - K.S.A. 2012 Supp. 22-3717(d)(1)(D)(i)

(“Sexually motivated” defined in K.S.A. 2012 Supp. 22-3717(d)(2).)

2. Reasons Cited as Basis for Departure: _____

SECTION V. OTHER CONDITIONS

1. General/Special Conditions of Probation (COMPLETE AND ATTACH ORDER OF PROBATION TO THIS JOURNAL ENTRY if needed)

Follow all recs of sex offender eval; No contact w/M.C., her residence or employment

2. Costs Ordered:

Total Restitution (Please complete #3 below)	\$ <u>—</u>	Correctional Supv. Fee (Felony \$120; Misd. \$80)	\$ <u>ord</u>
Court Costs (including surcharge)	\$ <u>ord</u>	BIDS Attorney Fee <input type="checkbox"/> Waived	\$ <u>—</u>
*Total Fines	\$ <u>—</u>	BIDS Application Fee	\$ <u>—</u>
DNA Database Fee (K.S.A. 21-2611 & 76-724)	\$ <u>ord</u>	Court-Appointed Attorney Fee	\$ <u>—</u>
Extradition Costs	\$ <u>—</u>	Community Corr. Fee (offenses after 1/1/07)	\$ <u>ord</u>
Domestic Violence Special Program Fee	\$ <u>—</u>	Booking/Fingerprint Fee	\$ <u>ord</u>
Apprehension Fee (Escape/Agg. Escape)	\$ <u>—</u>	Reward Reimbursement	\$ <u>—</u>
Alcohol and/or Drug Eval. Fee (offenses before 7/1/11)	\$ <u>—</u>	Children's Advocacy Center Assessment Fee	\$ <u>—</u>
Witness Fee	\$ <u>ord</u>	Medical Costs/Expenses Reimbursement	\$ <u>—</u>
KBI Lab Fee	\$ <u>—</u>	SB 123 Assessment Fee (\$200)	\$ <u>—</u>
Other Lab Fee	\$ <u>—</u>	SB 123 Offender Reimbursement (\$100)	\$ <u>—</u>
Domestic Violence Assessment/Recommendations	\$ <u>—</u>	Other: _____	\$ <u>—</u>
		TOTAL COSTS	\$ <u>—</u>

* On and after 7/1/11 for DUI, fine of \$250 shall be sent to State Treasurer for Community Corrections Supervision Fund.

* On and after 7/1/13 for Promoting the Sale of Sexual Relations (K.S.A. 2013 Supp. 21-6420), Buying Sexual Relations (K.S.A. 2013 Supp. 21-6421), or Commercial Sexual Exploitation of a Child (2013 Session Laws Ch. 120 § 4), fine of \$2500-5000 shall be sent to Human Trafficking Victim Assistance Fund.

3. Restitution to be paid as follows:

Amount	Name and Address
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____

SEE DATE 2018/11/2 11:17

** This option is included in statute, but is unavailable

Case No. 13CR2912

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

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SECTION VI: RECAP OF SENTENCE

1. Sentence Imposed:

Total Prison Term (if sentence imposed is to prison): _____
Total County Jail Term: _____ Consecutive to Prison Term
Total Underlying Jail Term (if sentence imposed is probation): _____
Total Underlying Prison Term (if sentence imposed is probation): 14 months

For each count, the Court pronounced the complete sentence, including the maximum potential good time percentage. K.S.A. 2012 Supp. 21-6604(e)(2) and 21-6605(o)(2).

2. Postrelease Supervision Term: 12 months 24 months 36 months 60 months Lifetime Postrelease
 No Postrelease K.S.A. 2012 Supp. 22-3716(e) (not applicable to crimes committed on or after July 1, 2013)

3. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(f))

4. Probation Term Imposed (select one): 12 months 18 months 24 months 36 months 60 months
 Drug Treatment for up to 18 months. K.S.A. 2012 Supp. 21-6824
 Extended Period K.S.A. 2012 Supp. 21-6608(o)(6) for: 60 months
 Other: _____
*Correctional Conservation Camp

5. Incarceration Credit: Enter dates (m/d/yy only) and days of credit potentially for this case and check "A" if the days are actually awarded, or "N" if the days are not awarded by the court. (attach additional pages if necessary)

Location	From	To	Days	A	N	Location	From	To	Days	A	N
J	10/10/13	10/13/13	2	<input checked="" type="checkbox"/>	<input type="checkbox"/>						
				<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>

*Enter appropriate letters to indicate the type of location where credit may have been earned:
J=Jail TL=Treatment (Locked) TU=Treatment (Unlocked) RL=Residential (Locked) RU=Residential (Unlocked) HA=House Arrest
Sentencing Date: 11/7/2014 - Total Number of Days of Jail Credit Actually Awarded 2 = Sentence Begins Date:
IF cases are "CONSOLIDATED", list grand total of ALL jail credits actually

6. Prior Case(s) to Which the Current Sentence is to Run Concurrent or Consecutive:

Case No.	County	Sentence	Concurrent	or Consecutive
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

7. Miscellaneous Provisions:

- Defendant informed of right to appeal within 14 days of this date. K.S.A. 22-3608(o). (Required by case law)
- Defendant informed of potential rights of exoneration. K.S.A. 2012 Supp. 21-6614(e)(h)
- Defendant informed of duty to register as an offender pursuant to the Kansas Offender Registration Act, K.S.A. 2012 Supp. 22-4905(b)(2) (Please complete OFFENDER REGISTRATION SUPPLEMENT and attach it to the Journal Entry.)
- Defendant must submit specimens of blood or an oral or other biological sample, if not previously submitted, pursuant to K.S.A. 21-2511(o).
- Defendant must obtain psychological evaluation and shall complete the recommended treatment pursuant to K.S.A. 22-3717(d)(1)(D)(iv).
- Defendant has been processed, fingerprinted and palmprinted. K.S.A. 21-2501(b)
- Court remands Defendant to custody of Sheriff to begin serving sentence.
- Court remands Defendant to custody of Sheriff to await transportation to the custody of the Secretary of Corrections.
- Defendant to report to County Jail on the _____ day of _____, 20__ at _____ O'clock a.m. p.m. to start serving sentence.
- House arrest is authorized for remaining _____ days after Defendant completes mandatory _____ hours in the County Jail.
- Work release recommended (if accepted, defendant is to abide by recommendations of the program).
- Defendant's financial resources and burden imposed by BIDS application and attorney fees considered by the court pursuant to K.S.A. 22-4513 and *State v. Robinson*, 281 Kan. 838, 132 P.3d 934 (2008).
- Defendant to undergo domestic violence assessment pursuant to K.S.A. 2012 Supp. 21-6604(p)
- Other Comments:

STATE DATE 2014/11/12 11:11

** This option is included in statute, but is unavailable

Case No. 13CR0912

SECTION VI. RECAP OF SENTENCE CONTINUED

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8. Border Box Findings K.S.A. 2012 Supp. 21-6804(f): (Check if appropriate)

- An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and
- the recommended treatment program is available and the offender can be admitted to the program within a reasonable period of time; or
- the non-prison sanction will serve community safety interests by promoting offender reformation

9. If made, Motion for New Trial: Granted Denied

10. If made, Motion for Judgment of Acquittal: Granted Denied

11. If made, Motion for Arrest of Judgment: Granted Denied

12. Additional Comments:

SECTION VII. SIGNATURES

1. Judge's Signature: Date: 11/7/2014
Signed: [Signature]
Printed: Hon. Thomas Kelly Ryan

2. Prosecuting Attorney:
Signed: [Signature]
Printed: Erika N. DeMarco
Supreme Court Number: 22684
Date: 11/7/14
Address: P.O. Box 728
Olathe, Kansas 66061
Phone No: (913)716-3000

3. Defense Attorney:
Signed: [Signature]
Printed: Paul D. Cramm
Supreme Court Number: 19543
Date: 11/2/14
Address: 7450 W 130th St, Ste 805
Overland Park, KS 66213
Phone No: (913)302-8265

SCM DATE 2014/11/17

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Case No. <u>13CR0912</u>	
KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT <u>II</u> (Page 1 of 2)	
1. Name of Additional Offense of Conviction: <u>Aggravated Endangering of a Child</u> Count No.: <u>II</u> Date of Offense: <u>9/1/13-10/8/13</u> <input type="checkbox"/> Domestic Violence Offense (see #15 this section)	
2. (If Drug Offense) (Indicate statute for controlled substance) <input type="checkbox"/> 65-4106 <input type="checkbox"/> 65-4107 <input type="checkbox"/> 65-4109 <input type="checkbox"/> 65-4111 <input type="checkbox"/> 65-4119 Name of Drug: _____ Amount of Drug (If Distribution Offense): _____	
3. Sentences Concurrent or Consecutive: <input type="checkbox"/> Concurrent To Count(s): _____ <input checked="" type="checkbox"/> Consecutive To Count(s): <u>I</u> If Consecutive, <u>1</u> months for this count	
4. K.S.A. Title, Section, Subsection(s): <u>21-5601(b)(1)</u> <input type="checkbox"/> Attempt (K.S.A. 2012 Supp. 21-5301) <input type="checkbox"/> Conspiracy (K.S.A. 2012 Supp. 21-5302) <input type="checkbox"/> Solicitation (K.S.A. 2012 Supp. 21-5303)	
5. Grade of Offense: (Check one in each row.) <input checked="" type="checkbox"/> Felony, Severely Level <u>9</u> <input type="checkbox"/> Misdemeanor, Class: _____ <input checked="" type="checkbox"/> Person <input type="checkbox"/> Nonperson	
6. Offense Category: <input checked="" type="checkbox"/> Nondrug Grd <input type="checkbox"/> Drug Grd <input type="checkbox"/> Off-grid <input type="checkbox"/> Nongrid	
7. Presumptive Sentencing Range: (Use Criminal History Classification "I" for non-primary convictions.) (Enter terms from appropriate grid.) Aggravated <u>1</u> Standard <u>6</u> Mitigated <u>5</u> (Check the appropriate box(es)) <input type="checkbox"/> Presumptive Prison <input checked="" type="checkbox"/> Presumptive Probation <input type="checkbox"/> Border Box <input type="checkbox"/> Drug Treatment for up to 18 months, K.S.A. 2012 Supp. 21-6824 <input checked="" type="checkbox"/> Special Rule Applies (Complete Special Rule Supplemental Page and Attach)	
8. SPECIAL RULES Enter the number(s) and brief description(s) corresponding to the applicable special rule, if any, (Complete Special Rule Supplemental Page and Attach): <u>#35 - Agg Endangering of a Child</u>	
9. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act 9a. Did the court make a special finding that the crime was sexually motivated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 9b. IF YES to 9a, did the court find that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2012 Supp. 22-4902(o)(16)) <input type="checkbox"/> Yes <input type="checkbox"/> No 9c. IF YES to 9a and NO to 9b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH TO JOURNAL ENTRY.	
10. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2012 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH TO JOURNAL ENTRY. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Is offender being sentenced pursuant to K.S.A. 2012 Supp. 21-6627 where offender is 18 years of age or older and the victim is less than 14 years of age? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH TO JOURNAL ENTRY. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
12. Downward departure (K.S.A. 2012 Supp. 21-6816(a)) for a crime of extreme sexual violence (K.S.A. 2012 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH TO JOURNAL ENTRY. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
13. Did offender, as determined by the court, commit the current crime with a deadly weapon? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH TO JOURNAL ENTRY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14. Was offender convicted of a violation of K.S.A. 2012 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2012 Supp. 21-5705(a)(1), Cultivation, Distribution, Possession w/ intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), (f)(1), or K.S.A. 21-5708(a), Possession of precursors w/ Intent to manufacture? IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH TO JOURNAL ENTRY. (personal use exemption eliminated effective July 1, 2011) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
15. Determination of domestic violence case designation 15a. Did offender, as determined by the <u>fact</u> , commit a domestic violence offense? 15b. IF YES to 15a above, did the court find that offender had no prior domestic violence conviction or diversion, AND that offender did not use the present domestic violence offense to coerce, control or punish the victim? 15c. IF YES to 15a and NO to 15b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> DV Case	

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Case No. 13CR2912

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES CONTINUED COUNT II (PAGE 2 OF 2)

SENTENCE IMPOSED: 7 months

1. Guideline Range Imposed: Aggravated Standard Mitigated Departure - COMPLETE SECTION IV

2. Pison Term: KDOC 1 months (including enhancement sentence)
(Enter months above then check one of the following) Pison sentence imposed or Underlying with probation granted
**or Underlying with KDOC Drug Trmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months (K.S.A. 2012 Supp. 21-6808(g))
Ballistic Resistant Material: 30 months (K.S.A. 2012 Supp. 21-6804(l))

Off-grid Crime:

Life - Minimum 15 yrs. Life - Minimum 20 yrs. Hard 25 Hard 40 Hard 60
 Mandatory minimum years = 50 years (600 months) or _____ months pursuant to guidelines, given offender's criminal history, whichever is greater
 Life Imprisonment without Parole Death Penalty

3. Postrelease Supervision Term: 12 months 24 months 36 months 60 months (sex offense) - COMPLETE SECTION IV
 Lifetime Postrelease No Postrelease (K.S.A. 2012 Supp. 22-3716(e)) (not applicable to crimes committed on or after July 1, 2013)

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6104(f))

5. Nongrid Term (Jail) (For misdemeanor or nongrid felony) _____ months days
(Enter county jail term above then check one of the following) Jail sentence imposed or Underlying with probation granted.

3rd D.U.I. 4th & Subs. D.U.I. 2nd Test Refusal 3rd & Subs. Test Refusal
D.U.I. or Test Refusal Supervision (12 months) Court Services Community Corrections

3rd & Subs. Domestic Battery w/in 5 yrs. Animal Cruelty

Probation granted after serving term of _____ months days

Assignment to a work-release program (K.S.A. 2012 Supp. 21-6604 (e)(11))

6. Probation Term Imposed (select one): 12 months 18 months 24 months 36 months 60 months

Drug Treatment for up to 18 months. (K.S.A. 2012 Supp. 21-6824)

Extended Period (K.S.A. 2012 Supp. 21-6808(e)(5)) for: 60 months

Other:

Probation Supervision to: Court Services Community Corrections Unsupervised

County Jail Time Imposed AS A CONDITION OF PROBATION: _____ days

**Assignment to Correctional Conservation Camp

Withheld authority of court services/community corrections to impose intermediate sanction pursuant to K.S.A. 2013 Supp. 21-6604(e) or (f)

Comments: Defendant may request early termination of probation after 36 months, but State may oppose

7. Additional Comments:

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Case No. 13CR0912

SPECIAL RULES SUPPLEMENTAL PAGE (IF APPLICABLE, check box of the special rule that applies and include this page with the corresponding count. Additional copies may be made as needed.) PLEASE DO NOT RENUMBER THIS PAGE.) A special rule that changes the presumptive sentence, without constituting a departure, is applicable to this count because:

PUBLIC SAFETY OFFENSES / FIREARMS FINDING APPLY:

1. Person Felony Committed With a Firearm - presumed prison, K.S.A. 2012 Supp. 21-6804(h)
2. Agg. Battery against a L.E.O., if criminal history is 6H or 6I - presumed prison, K.S.A. 2012 Supp. 21-6804(g)
3. Agg. Assault against a L.E.O., if criminal history is 6H or 6I - presumed prison, K.S.A. 2012 Supp. 21-6804(g)
34. Battery on a L.E.O., K.S.A. 21-5413(o)(2), resulting in bodily harm - presumed prison and consecutive, K.S.A. 2012 Supp. 21-6804(r)
32. Drug Felony While in Possession of a Firearm - presumed prison, K.S.A. 2012 Supp. 21-6808(g)
33. Drug Felony With a Firearm that Discharges - presumed prison, K.S.A. 2012 Supp. 21-6808(g)
4. Crime Committed for Benefit of a Criminal Street Gang - presumed prison, K.S.A. 2012 Supp. 21-6804(k)
11. Extended Jurisdiction Juvenile Imposed - both juvenile and adult sentences stayed conditioned on successful completion of juvenile sentence, K.S.A. 2012 Supp. 38-2347 and 2012 Supp. 38-2364
35. Agg. Endangering a Child - consecutive sentence required, K.S.A. 2012 Supp. 21-6801(o)(2)
36. Ballistic Resistant Material worn/used in commission/attempt/fight from felony - presumed prison with additional 30 months and consecutive, K.S.A. 2012 Supp. 21-6804(i)
38. Unlawful Sexual Relations - presumed prison - K.S.A. 2012 Supp. 21-6804(e)

HABITUAL OR REPEAT OFFENSES APPLY:

5. Persistent Sex Offender - presumed prison, double the maximum duration, K.S.A. 2012 Supp. 21-6804(j)
12. 2nd or Subs. Manufacture of a Controlled Substance Conviction - If previous conviction is for methamphetamine or analog, presumed prison, twice the maximum duration, K.S.A. 2012 Supp. 21-6805(e)
28. 3rd or Subs. Felony Drug Possession occurring on or after July 1, 2008 - presumed prison, K.S.A. 2012 Supp. 21-6805(j)(1)
13. Residential Burglary with a Prior Residential, Nonresidential or Agg. Burglary Conviction, or any attempt or conspiracy convictions of these priors - presumed prison, K.S.A. 2012 Supp. 21-6804(i)
27. Burglary With Two or More Prior Convictions for a Violation of Theft, Burglary, or Agg. Burglary - presumed prison, K.S.A. 2012 Supp. 21-6804(p)
29. Felony Theft With Three or More Prior Convictions for a Felony Violation of Theft, Burglary, or Agg. Burglary - presumed prison, K.S.A. 2012 Supp. 21-6804(p)
30. For #27 or #29, Substance Abuse Underlying Factor, Treatment More Effective to Reduce Recidivism Risk and Community Safety Served - KDOC Intensive Substance Abuse Treatment Program, Return to Court Upon Successful Completion, K.S.A. 2012 Supp. 21-6804(p)
31. 3rd or Subs. Criminal Deprivation of a Motor Vehicle - presumptive prison, K.S.A. 2012 Supp. 21-6804(n)
16. 2nd Forgery, criminal history I - C, sentenced pursuant to sentencing requirements of K.S.A. 2012 Supp. 21-5823, term of imprisonment not in KDOC, Criminal history A or B, - sentenced for SL 8, NPF, K.S.A. 2012 Supp. 21-6804(f)
17. 3rd or Subs. Forgery, criminal history I - C, sentenced pursuant to sentencing requirements of K.S.A. 2012 Supp. 21-5823, term of imprisonment not in KDOC, Criminal history A or B, - sentenced for SL 8, NPF, K.S.A. 2012 Supp. 21-6804(f)
9. Crime Committed While Incarcerated, on Probation, Parole, Conditional Release, or Postrelease Supervision for a Felony - new sentence shall be imposed consecutively, K.S.A. 2012 Supp. 21-6808(o). If new crime is a felony, court may impose prison even if presumption is nonprison, K.S.A. 2012 Supp. 21-6804(j)(1)
40. Felony Committed After Early Discharge Where Offender Would Have Been On Probation or Postrelease Supervision for a Felony - If committed after early discharge pursuant to K.S.A. 2013 Supp. 21-6808(d) or K.S.A. 2013 Supp. 22-3717(d)(2), may impose prison even if presumed nonprison, K.S.A. 2013 Supp. 21-6804(j)(2)
28. Felony Committed While Incarcerated in a Juvenile Correctional Facility for an Offense That Would be a Felony if Committed by an Adult - presumed prison, K.S.A. 2013 Supp. 21-6804(j)(3)
10. Crime Committed While on Felony Bond - new sentence imposed consecutively, K.S.A. 2012 Supp. 21-6808(d), 21-6804(j)(4). If new crime is a felony, court may impose prison even if presumption is nonprison, K.S.A. 2013 Supp. 21-6804(j)(4).
37. 2nd or Subs. Identity Theft or Identity Fraud - presumed prison, K.S.A. 2012 Supp. 21-6804(u)

NONGRID OFFENSES APPLY, K.S.A. 2012 Supp. 21-6804(l) - Term of imprisonment not in KDOC.

6. Felony D.U.I. (3rd, 4th or Subs.) - nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 8-1667.
39. Felony Test Refusal (2nd, 3rd, or Subs.) - nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 8-1028
8. Felony Domestic Battery - nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 21-5414(b)(3).
21. Animal Cruelty - K.S.A. 2012 Supp. 21-6412; 2nd or subs. conviction; or Working / Assistance dog - K.S.A. 2012 Supp. 21-6416 - nongrid, sentenced pursuant to specific mandatory sentencing requirements of same statute.

FINANCE OFFENSES APPLY:

25. Fraudulent Insurance Act, any combination of acts occurring within 6 consecutive months involving \$25,000 or more - presumed prison, K.S.A. 2012 Supp. 40-2,118(e)
15. Kansas Uniform Securities Act, violation resulting in loss of \$25,000 or more - presumed prison, K.S.A. 17-12a508(a)(5).
19. Mortgage Business Act, 2nd or subs. Conviction - presumed prison, K.S.A. 2012 Supp. 8-2203(d)
20. Loan Brokers Act, violation resulting in loss of \$25,000 or more - presumed prison, K.S.A. 60-1013(e)

*This option is included, but is unavailable

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Case No. <u>13CR0912</u>	
SEX OFFENSE SUPPLEMENT (If applicable, complete and attach to the Journal Entry.)	
1. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2012 Supp. 21-6626) IF YES, PLEASE COMPLETE SECTION A. "Aggravated Habitual Sex Offenders".	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Is offender being sentenced pursuant to K.S.A. 2012 Supp. 21-6627 where offender is 18 years of age or older and the victim less than 14 years of age? IF YES, PLEASE COMPLETE SECTION B. "Child Sex Offenses".	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
SECTION A. Aggravated Habitual Sex Offenders – K.S.A. 2012 Supp. 21-6626	
<input type="checkbox"/> Imprisonment for life without the possibility of parole; not eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.	
SECTION B. Child Sex Offenses – K.S.A. 2012 Supp. 21-6627	
Sentence imposed for sex offenses where offender is 18 years of age or older and the victim is less than 14 years of age. (CHECK ONLY ONE)	
First Offense	
<input type="checkbox"/> Downward departure to guidelines, subject to provisions of K.S.A. 2012 Supp. 21-6618; lifetime postrelease supervision. <i>State v. Ballard, 289 Kan. 1000 218 P.3d 432 (2009) (Complete Section IV – Departure Information, page 3 of Journal Entry of Judgment.)</i>	
<input type="checkbox"/> Mandatory minimum of Hard 26 years (300 months) or _____ months pursuant to guidelines, given offender's criminal history, whichever is greater; lifetime parole. K.S.A. 2012 Supp. 22-3717(v).	
Second Offense	
<input type="checkbox"/> Mandatory minimum of Hard 40 years (480 months) or _____ months pursuant to guidelines, given offender's criminal history, whichever is greater; lifetime parole. K.S.A. 2012 Supp. 22-3717(v).	
Third Offense – see Section A. above, Aggravated Habitual Sex Offender – Life Imprisonment Without Parole.	
SECTION C. Downward Departure K.S.A. 2012 Supp 21-6618 for a Crime of Extreme Sexual Violence K.S.A. 2012 Supp. 21-6615 (NO downward dispositional departure allowed)	
Downward durational departure limited to 60% of middle of the sentencing range? <input type="checkbox"/> Yes <input type="checkbox"/> No	
SECTION D. Sexually Violent Crime - K.S.A. 2012 Supp. 22-3717(d)(2)	
Was offender convicted of a sexually violent crime, but was not sentenced pursuant to K.S.A. 2012 Supp. 21-6627?	
<input type="checkbox"/> Yes – Lifetime postrelease supervision (K.S.A. 2012 Supp. 22-3717(d)(1)(G))	
<input type="checkbox"/> No – Postrelease supervision term as otherwise indicated by law	
Comments:	

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OFFENDER REGISTRATION SUPPLEMENT - K.S.A. 2012 Supp. 22-4901 et seq.
(If applicable, complete both pages and attach to the Journal Entry.)

(PAGE 1 of 2)

SECTION A. REGISTRATION REQUIREMENT - Check appropriate boxes to indicate the REASON for registration.
See K.S.A. 2012 Supp. 22-4902(a)

Offender required by court order to register for an offense not otherwise required as provided by the Kansas Offender Registration Act **(SEX OFFENDER)**

Enter age of victim (K.S.A. 2012 Supp. 22-4904(e)(4))

Offender required to register due to **SEX OFFENDER** status as indicated by any of the following:

Conviction of any of the following crimes:

- Sexual Battery - K.S.A. 2012 Supp. 21-5505(a)
- Any conviction for any comparable offense
- Any attempt, conspiracy or criminal solicitation of a comparable crime

Conviction of any of the following crimes when one of the parties involved is under 18 years of age:

- Adultery - K.S.A. 2012 Supp. 21-5511
- Promoting Prostitution - K.S.A. 2012 Supp. 21-5420
- Lewd and Lascivious Behavior - K.S.A. 2012 Supp. 21-5513
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section
- Criminal Sodomy - K.S.A. 2012 Supp. 21-5504(e)
- Buying Sexual Relations - K.S.A. 2013 Supp. 21-5421
- Conviction for any comparable offense

Conviction of any of the following sexually violent crimes or adjudication as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime, UNLESS the court finds on the record that the act involved non-forcible sexual conduct, the victim was at least 14 and the offender not more than 4 years older than victim:

- Indecent Liberties With a Child - K.S.A. 2012 Supp. 21-5508(a)
- Rape - K.S.A. 2012 Supp. 21-5503
- Agg. Indecent Liberties With a Child - K.S.A. 2012 Supp. 21-5508(b)
- Agg. Criminal Sodomy - K.S.A. 2012 Supp. 21-5504(b)
- Agg. Indecent Solicitation of a Child - K.S.A. 2012 Supp. 21-5508(b)
- Agg. Sexual Battery - K.S.A. 2012 Supp. 21-5505(b)
- Electronic Solicitation - K.S.A. 2012 Supp. 21-5509
- Agg. Human Trafficking, if committed in whole or in part for the purpose of sexual gratification of the defendant or another - K.S.A. 2012 Supp. 21-5426(b)
- Criminal Sodomy - K.S.A. 2012 Supp. 21-5504(e)(3), (e)(4)
- Indecent Solicitation of a Child - K.S.A. 2012 Supp. 21-5508
- Sexual Exploitation of a Child - K.S.A. 2012 Supp. 21-5510
- Commercial Sexual Exploitation of a Child - 2013 Session Laws Ch. 120 § 4
- Agg. Incest - K.S.A. 2012 Supp. 21-5304(b)(1)
- Unlawful Sexual Relations - K.S.A. 2012 Supp. 21-5512
- Unlawful Sexual Relations - K.S.A. 2012 Supp. 21-5512

Any conviction for any comparable offense

Any attempt, conspiracy or criminal solicitation of a sexually violent crime

Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim - K.S.A. 2011 Supp. 22-4902 (c)(16)

Offender required to register due to **VIOLENT OFFENDER** status (indicated by conviction of any of the following crimes):

- Capital Murder - K.S.A. 2012 Supp. 21-5401
 - Murder in the Second Degree - K.S.A. 2012 Supp. 21-5403
 - Involuntary Manslaughter - K.S.A. 2012 Supp. 21-5405(a)(1), (a)(2) or (a)(4)
 - Agg. Kidnapping - K.S.A. 2012 Supp. 21-5408(b)
 - Agg. Human Trafficking, if not committed in whole or in part for the purpose of sexual gratification of the defendant or another - K.S.A. 2012 Supp. 21-5426(b)
 - Murder in the First Degree - K.S.A. 2012 Supp. 21-5402
 - Voluntary Manslaughter - K.S.A. 2012 Supp. 21-5404
 - Kidnapping - K.S.A. 2012 Supp. 21-5408(a)
 - Criminal Reckless - K.S.A. 2012 Supp. 21-5411 (except by parent, and only when victim is less than 18 years of age)
- Any conviction for any comparable offense
- Any out of state conviction for an offense that under the laws of Kansas would be an offense listed in this section
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section
- Any person felony with court finding on the record that such felony was committed with a **DEADLY WEAPON** (On or after July 1, 2006)
- Any conviction for any comparable person felony, committed with a **DEADLY WEAPON**
- Any attempt, conspiracy or criminal solicitation of a person felony committed with a **DEADLY WEAPON**

Offender required to register due to **DRUG OFFENDER** status (indicated by conviction of any of the following crimes):

- Manufacture or attempted manufacture of any controlled substance - K.S.A. 2012 Supp. 21-5703
- Possession of precursors with intent to manufacture any controlled substance - K.S.A. 2012 Supp. 21-5709(a)
- Cultivation, Distribution, Possession with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3) or (d)(1) - K.S.A. 2012 Supp. 5705(a)(1), ONLY
- Any conviction for any comparable offenses
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

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OFFENDER REGISTRATION SUPPLEMENT CONT. - K.S.A. 2012 Supp. 22-4901 et seq.

(PAGE 2 of 2)

SECTION B. REGISTRATION TERMS - check appropriate boxes indicating REQUIRED TERM of registration
See K.S.A. 2012 Supp. 22-4906

Offender must register for **15 YEARS** after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, **15 YEARS** from the date of conviction due to conviction of any of the following crimes:

- Capital Murder - K.S.A. 2012 Supp. 21-5401
- Murder in the First Degree - K.S.A. 2012 Supp. 21-5402
- Murder in the Second Degree - K.S.A. 2012 Supp. 21-5403
- Voluntary Manslaughter - K.S.A. 2012 Supp. 21-5404
- Involuntary Manslaughter - K.S.A. 2012 Supp. 21-5405(a)(1), (a)(2) or (a)(4)
- Sexual Battery - K.S.A. 2012 Supp. 21-5505(a)
- Criminal Restraint - K.S.A. 2012 Supp. 21-5411 (except by parent, and only when victim is less than 18 years of age)
- Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim - K.S.A. 2012 Supp. 22-4902(a)(16)
- Any conviction of a person felony with court finding on the record that such felony was committed with a **DEADLY WEAPON** - K.S.A. 2012 Supp. 22-4902(e)(2)
- An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 2012 Supp. 22-4902(a)(6)
- Manufacture or attempted manufacture of any controlled substance - K.S.A. 2012 Supp. 21-5703
- Possession of precursors with intent to manufacture any controlled substance - K.S.A. 2012 Supp. 21-5709(e)
- Cultivation, Distribution, Possession with intent to distribute opiates, opium or narcotic drugs or any stimulant in K.S.A. 65-4107(d)(1), (d)(3), or (j)(1) K.S.A. 2012 Supp. 21-5705(a)(1) **ONLY**
- Any of the following crimes when one of the parties is less than 18 years of age:
 - Adultery - K.S.A. 2012 Supp. 21-5511
 - Buying Sexual Relations - K.S.A. 2013 Supp. 21-6421
 - Lewd and Lascivious Behavior - K.S.A. 2012 Supp. 21-5513
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Offender must register for **25 YEARS** after the date of parole, discharge or release, whichever date is most recent, or, if offender is not confined, **25 YEARS** from the date of conviction due to conviction of any of the following crimes:

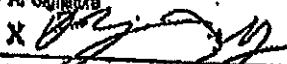
- Indecent Solicitation of a Child - K.S.A. 2012 Supp. 21-5503
- Electronic Solicitation - K.S.A. 2012 Supp. 21-5509
- Agg. Incest - K.S.A. 2012 Supp. 21-5504(b)(1)
- Indecent Liberties With a Child - K.S.A. 2012 Supp. 21-5508(e)
- Unlawful Sexual Relations - K.S.A. 2012 Supp. 21-5512
- Agg. Sexual Battery - K.S.A. 2012 Supp. 21-5505(b)
- Sexual Exploitation of a Child - K.S.A. 2012 Supp. 21-5510, if the victim is at least 14 years of age but less than 18 years of age
- Promoting Prostitution - K.S.A. 2012 Supp. 21-6420, if the victim is at least 14 years of age but less than 18 years of age
- Criminal Sodomy - K.S.A. 2012 Supp. 21-5504(a) when one of the parties involved is less than 18 years of age
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Offender is subject to **LIFETIME** registration due to any of the following:

- 2nd or subsequent conviction of an offense requiring registration
- Conviction of any of the following crimes:
 - Rape - K.S.A. 2012 Supp. 21-5503
 - Agg. Kidnapping - K.S.A. 2012 Supp. 21-5408(b)
 - Kidnapping - K.S.A. 2012 Supp. 21-5408(e)
 - Agg. Criminal Sodomy - K.S.A. 2012 Supp. 21-5504(b)
 - Criminal Sodomy - K.S.A. 2012 Supp. 21-5504(a)(3) or (a)(4)
 - Agg. Indecent Liberties With a Child - K.S.A. 2012 Supp. 21-5508(b)
 - Agg. Indecent Solicitation of a Child - K.S.A. 2012 Supp. 21-5503(b)
 - Agg. Human Trafficking - K.S.A. 2012 Supp. 21-5426(b)
 - Sexual Exploitation of a Child - K.S.A. 2012 Supp. 21-5510, if the victim is less than 14 years of age
 - Commercial Sexual Exploitation of a Child - 2013 Session Laws Ch. 120 § 4
 - Promoting Prostitution - K.S.A. 2012 Supp. 21-6420, if the victim is less than 14 years of age
 - Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Registration as a sex offender during term of probation
per KSA 22-4906(i)

SCAN DATE 2014/12/11 11:17

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
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R. Article Number (transfer from service label)	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> G.O.D.
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