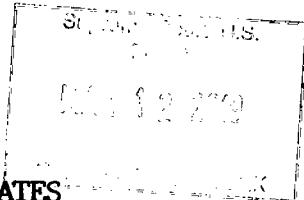


ORIGINAL

18-3488

NO. _____



IN THE
SUPREME COURT OF THE UNITED STATES

RONALD E. MITCHELL, PRO SE.

PETITIONER

ANNE PRECYTHE, et al.

RESPONDENTS.

ON PETITION FOR WRIT OF CERTIORARI
TO THE EIGHT CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

RONALD E. MITCHELL, PRO SE.

MOBERLY CORRECTIONAL CENTER

P.O. BOX #7

MOBERLY, MISSOURI 65270

QUESTION(S) PRESENTED

I was arrested and put in the jail (hole) on Oct. 25, 2016, for an altered ink pen with the APPERANCE OF DRUG RESIDUE, that was found on the top bunk, I sleep on the bottom bunk. The residue was not drug residue, per. the mo. d.o.c. centeral office. I was held without probable cause being established for eighty-three (83) days for investigation. Respondants have a N.A.R.C. II test on site that can determine if the residue was drugs or not, with the results within forty (40) min. The respondents chose not to use this determination to show there was no druds present in the pen. The respondants chose not to use the stress test (lie detector) test which is on site, and in accordance with Mo. D.O.C. policy D1-8.3 to establish the truth , with the results in fifteen (15) minutes. I was kept in jail (hole) eighty -three days without the benefit of the aformentioned investigative tools at there disposal to establish probable cause. After thirty (30) days my confinement was continued on Nov. 23, 2016, per. Lori Bowen, Function Unit Manager (F.U.M.), it was was prdered that my confinement be continued on, Dec. 23, 2016, per. Kaley stone, case manager II. MISSOURI STATUE 217. 380, clearly states that no one is to be confined on proof of guilt for more than thirty (30) days for a major violation, and no more than ten (10) days for a minor violation which is what RULE 11.3 is. I filed a grievance on 5/18/17, the grievance response clearly states " I find that there is sufficent evidence to warrant a dismissal of the violation!" "Therefore, I shall direct that the aforementioned violation (tracking # 16-06726) be dismissed and expunged from your file" Which shows that a mistake has been made. Which shows that a mistake has been made, for which i am seeking, seventy-five (75) dollars a day for eighty-three (83) days, a totle of \$6,225.00, for wrongful imprisonment, in actual damages, and fifty-thousand (\$50,000.00) dollars in punitive damages.

QUESTION: how can the district court use **SANDINE**, 515 U.S. 472, 484 (1995), when it clearly states; "if you donot break the rules, you willnot be punished,

and the EIGHT CIRCUIT OF APPEALS HAS RULED IN: HAYS V. FALKNER 388 F. 3d, 669 (2004), Which awarded a fifty-thousand (\$50,000.00) award for wrongful imprisonment. When the petitioner has shown that the conduct violation was later dismissed and expunged, to create a liberty interest, and the imprisonment (hole) was a ~~right~~ mistake.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[x] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Anne Precythe, Director, Mo. D.O.C., 2729 Plaza Dr. , P.O. Box 236, Jefferson City, Missouri 65102

Sherie Korneman, Warden, Western Missouri Correctional Center, 1609 E. Pence Rd, Cameron, Missouri 64429

Kaley Stone, CM II, Western Missouri Correctional Center, 609 E. Pence Rd. Cameron, Missouri 64429.

Lori bowen, FUM, 609 E. Pence Rd. Cameron, Missouri 64429.

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APPENDIX, 1-A,

JUDGMENT, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, NO. 18-2438,
IT IS ORDERED BY THE COURT THAT THE JUDGMENT OF THE DISTRICT COURT IS SUMMARILY
AFFIRMED. JUDGES, SHEPHERD, WOLLMAN, AND GRASZ, CIRCUIT JUDGES.

APPENDIX, 1-B and 1-B1"

ORDER, ACCORDINGLY, IT IS ORDERED THAT PLAINTIFF'S MOTION FOR RECONSIDERATION
(DOC. 14) OF THE DISMISSAL OF THIS CASE WITHOUT PREJUDICE IS DENIED. IT IS SO
ORDERED. NANETTE K. LAUGHEY, JUDGE, UNITED STATES DISTRICT COURT.

APPENDIX, 1-C-1 THROUGH 1-C-6,

ACCORDINGLY, IT IS ORDERED THAT: (1) THIS CASE IS DISMISSED WITHOUT PREJUDICE;
AND (2) THE AGENCY HAVING CUSTODY OF PLAINTIFF FORWARD TO THE CLERK OF THE COURT
MONTHLY PAYMENTS OF TWENTY PERCENT OF THE MONTHS INCOME CREDITED TO PLAINTIFF'S
ACCOUNT EACH TIME THE AMOUNT IN THE ACCOUNT EXCEEDS \$10 UNTIL THE AMOUNT OF
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APPENDIX, "A",

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APPENDIX, "E",

217. 380 R.S.MO. (2017).

APPENDIX, "F",

INFORMAL RESOLUTION REQUEST, JAN. 20, 2017.

APPENDIX, "G",

OFFENDER GRIEVANCE, MAR. 15, 2017.

APPENDIX, "H",

GRIEVANCE LOG NUMBER: WMCC 17-97

APPENDIX, "I",

OFFENDER GRIEVANCE APPEAL, MAY 26, 2017.

APPENDIX, "J",

STATE OF MISSOURI, DEPARTMENT OF CORRECTIONS, GRIEVANCE APPEAL RESPONSE, JULY 27, 2017.

APPENDIX, "K",

SOP D5-3.2 OFFENDER GRIEVANCE, REMEDIES: (4) (c).

APPENDIX, "L",

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FIRST AMENDMENT, U.S. CONSTITUTION

CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERSISE THEREOF; OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS, OR THE RIGHT OF THE PEOPLE PEACEABLE, AND TO PRTITION THE GOVERMENT FOR A REDRESS OF GRIEVANCES.

FOURTH AMENDMENT, U.S. CONSTITUTION

THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEARCHED, AND SEIZED

FIFTH AMENDMENT, U.S. CONSTITUTION

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITOL, OR OTHER WISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN MILITIA, WHEN IN ACTUAL SERVICE IN TIME OF WAR OR PUBLIC DANGER NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION

FOURTEENIH AMENDMENT, U.S. CONSTITUTION

SECTION 1. ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO

FOURTEENTH AMENDMENT U.S. CONSTITUTION CONT.

THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 1-A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix 1-B&C to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 20, 2018.

[X] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

I was arrested and put in the (HOLE) on Oct. 25,2016,for an altered pen with the apperence of drug residue,that was found on the top bunk. I sleep on the bottom bunk, SEE: APPENDIX "A" at "A-1, and "A-2", and "A-4" The residue was not drug residue, PER. MO. D.O.C. CENTERAL OFFICE. I was held without PROBABLE CAUSE BEING ESTABLISHED for eighty-three (83) days for investigation,for which I am requesting seventy-five (\$75.00) dollars a day.Respondants have a, N.A.R.C.II, drug test on site that can determine if the residue was drugs or not.the Respondants choose not to use this determination that would have results within forty(40) minutes. The Respondants have a stress test (LIE DETECTOR) tester on site to determine the owner of the altered pen, with the results in fifteen(15) minutes, the Respondants choose not to use this to establish PROBABLE CAUSE, but choose to keep me in jail(HOLE) for eighty-three (83) days without the benefit of these investigative tools at their disposal. After thirty (30) days my confinement was continued for thirty(30) more days on Nov. 23,2016, by Lori Bowen, Function Unit Manager (F.U.M.), SEE: APPENDIX "B at B-1,B-2,B-3,B-4,B-5,B-6, B-7, and "D-3, at "B-3" the urinalysis results were negative. On Dec. 23,2016, It was ordered that my confinement be continued for thirty (30) more days, by, Kaley Stone, Case manager II, SEE: APPENDIX "C at C3, On Jan.6,2017, I was released from adminstrative segation,SEE: APPENDIX "D" at D-1. I was found guilty without any evidence of guilt, via. labatory report or chemical anyllise, SEE: APPENDIX "D" at D-2". I was given two (2) days disiplinary segergation without a showing of probable cause that violated my FOURTH AMENDMENT RIGHT TO PROBABLE CAUSE to warrant the eighty-three (83) days of confinement. MISSOIRI REVISED STATUE, R.S.MO. 217.380 (2), clearly states that: "INMATE NOT TO BE CONFINED IN A DISPLINARY SEGERGATION UNIT FOR A PEROID NOT TO EXCEED THIRTY (30) DAYS DISPLINARY SEGERATION OF MORE THAN TEN (10) DAYS MAY ONLY BE GIVEN FOR SERIOUS CONDUCT VIOLATIONS AS DEFINED BY RULE OR 2e' ULA4ON OF THE DIVISION;" SEE: APPENDIX "E" at E-1.

Petitioner filed an Informal Resolution Request on Jan 20, 2017, SEE: APPENDIX "F", where compensation was requested for the eighty-three (83) days Petitioner spent in jail (hole) that was denied, SEE: APPENDIX "F" at F-1, That was on March 1, 2017, my request was reinterated on March 15, 2017, via offender grievance #W.M.C.C. 17-97. SEE: APPENDIX "G" The response was, "I SHALL DIRECT THAT THE AFFOREMENTIONED VIOLATION (tracking #W.M.C.C. 16-06726) BE DISMISSED AND EXPUNGED FROM YOUR FILE", SEE: APPENDIX "H" at H-1. To exhaust all remedies petitioner filed an offender grievance appeal on May 26, 2017, Grievance #W.M.C.C. 17-97, SEE: APPENDIX "I" The grievance appeal response was, " BE ADVISED CONSEQUENTIAL OR PUNITIVE DAMAGES WILL NOT BE PROVIDED VIA MISSOURI DEPARTMENT OF CORRECTIONS POLICY D5-3.2 OFFENDER GRIEVANCE" YOUR APPEAL IS DENIED", SEE: APPENDIX "J" at J-1, The policy D5-3.2, SEE: APPENDIX "K" at K-1.

There was no finding of probable cause, the apperance of is unconstitutionally vague, SEE: APPENDIX "A" at A-2. Respondant, Warden, Korneman created a policy allowing and encouraging this unconstitutional act by the direct participation in each stage of this unconstitutional act. The FOURTEENTH (14) AMENDMENT CLEARLY STATES: " NO STATE SHALL DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW, NOR TO DENY TO ANY PERSON WITHIN IT'S JURISDICTION THE EQUAL PROTECTION OF THE LAWS" Respondant's truculent disregard for Petitioner's constitutional rights, The laws of the state of Missouri, towitt: R.S.MO. 217.380, SEE: APPENDIX "E" at E-1, and the MISSOURI SUPREME COURT RULE, 22.03 (c), "STATE THE FACTS THAT SUPPORT A FINDING OF PROBABLE CAUSE TO BELIEVE A CRIME HAS BEEN COMMITTED AND THE ACCUSED COMMITTED IT;

(d), STATE THE FACTS CONTAINED THEREIN ARE TRUE;

SEE: APPENDIX "L" at L-1, and L-2.

PURSUANT TO: ARMSTRONG 152 F. 3d 564-576, [HN 2] " DEFENDANTS RECKLESSLY DEPRIVED PETITIONER OF HIS CONSTITUTIONAL RIGHTS UNDER COLOR OF STATE LAW, towitt: MISSOURI REVISED STATUE, 217.380, SEE: EXHIBIT "E at E-1. as setforth in:

HAYS V. FAULKNER 388 F.3d 669,673 (8th CIR.) there was an award of fifty-thousand (\$50,000.00) dollars for thirty-eight (38) days in jail (hole) "WHICH REQUIRES A JUDICAL DETERMINATION OF PROBABLE CAUSE AS REQUISITE TO EXTENDED RESTRAINT" the apperance of is constitutionally vague, and goes to prove that Respondants were deliberately indifferant to Petitioner's constitutional rights under the EIGHTH (8) AMENDMENT, AND COULD SHOCK THE CONSIOUSNESS OF A MATURING SOCIETY. pursuant to: RIVERSIDE V. MC LAUGHLIN, 111 S.ct. 1661, " NOT TO BE JAILED BEFORE PROBABLE CAUSE WAS ESTABLISHED". "TO BE JAILED (HOLE) WITHOUT INVESTIGATION CAN RAISE SERIOUS CONSTITUTUINAL QUESTIONS UNDER DUE PROCESS CLAUSE OF THE OF THE FOURTEENTH AMENDMENT. " MORE THAN FORTY-EIGHT (48) HOURS MEANS THAT THERE HAS BEEN PROBABLE CAUSE DETERMINATION. DUE PROCESS FORBIDS EXTENDED DETENTION AND GOES TO SHOW FALSE IMPRISIONMENT, SEE: BLUMEL V. MYLANDER, 954 F. SUPP. 1547,1556-57, (11th CIR. 1997) TO BE ILLEGALLY CONFINED WITHOUT PROOF NEEDED FOR PROBABLE CAUSE, ABRIDGES DUE PROCESS RIGHTS TO CREATE A LIBERTY INTEREST, as setforth in: BAKER V. MCULLAN 99 S.ct. 2689, " FALSE IMPRISONMENT REQUIRES THE ARREST BE MADE ONLY ON PROBABLE CAUSE, (NOT THE APPERANCE OF). Respondant, Korneman, Warden, W.M.C.C. is culpable to all charges by their direct supervision and complicity as shown in: EXHIBITS "B-8, C-4, AND D-4. Respondant, Bowen, is culpable to all charges by their direct involvement as shown in: EXHIBITS, "B-7, and "D-3, Respondant, Stone, CCM II, is culpable to all charges by their direct involvement as shown in: EXHIBITS "B-9,C-5, and D-5. The Respondants had fact-finding equipment via N.A.R.C. II, test for drugs with results in fourty (40) min., and lie detector (stress test) on site to determine probable cause in, with results in fifteen (15) min. to determine probable cause, without a eighty-three (83) day stay in jail (hole) per MO. D.O.C. POLICY, D1-8.3.

REASONS FOR GRANTING THE PETITION

The district court uses SANDIN 515 U.S. 486-87, as its reason for denieing Petitioner's 42 U.S.C. 1983 motion. When in fact, Sandin clearly states, " IF THE PRISIONER DOSEN'T BREAK THE RULES THERE IS TO BE NO PUNISHMENT", and in this case as set forth in Petitioner's, EXHIBIT "H" at H-1, clearly shows that Respondants, Korneman, dismissed the charges (conduct violation) for which petitioner was placed in AD/SEG (JAIL), and expunged it from his record, that in itself shows that a mistake has been made, SEE: APPENDIX 1-C at 1G-1 through 1G-5! and a wrongfull incarceration for eighty-three (83) days, and a mistake has been made. Pursuant to: GREEN V. FERREL 801 F.2d, 765, " PUNISHMENT ALWAYS IMPLICATES A LIBERTY INTEREST, BECAUSE OF THE REQUIRMENT OF GUILT IS A SUBSTANTIVE LIMIT ON OFFICAL DISCRETION, DISPLINARY SENTENCES MAY BE IMPOSED ONLY UPON AN ADVERSE DISPOSITION . SEE: HAYS V. FAULKNER 388 F. 3d. 669,673 (8th CIR. 2004).

There is no issue wheather such actions deprived the Petitioner of a liberty interest since the courts found that the disciplinary rules themselves created a liberty interest in violation of : R.S.MO. 217. 380, SEE: APPENDIX "H" at H-1. In effect " If you don't break the rules we won't punish you ", PURSUANT TO: PLEIKA V. NIX, 957 F. 2d, 1480 (8th CIR. 1992), states; " A PERSON MAYNOT BE PUNISHED WITHOUT DUE PROCESS OF LAW!" (writ-up was expunged, that shows that a mistake has been made, SEE: APPENDIX "H" AT H-1, I FIND THAT THERE IS SUFFICIENT EVIDENCE TO WARRANT A DISMISSAL OF VIOLATION. THEREFORE I SHALL DISMISS AND EXPUNGE FROM YOUR FILE. "1GRIEVENCE FOUND IN FAVOR OF GRIEVANT!" Which shows a mistake has been made, and Petitioner was deprived of eighty-three (83) days of the libertys other prisioners enjoyed. Which is not atypical of gereral populations privileges, PURSUANT TO: HEMPHILL V. DELO 105 F3d, 391, (8th CIR. 1997), Where the lower court was required to make a factual determination regarding why the inmates segeration didn't work a major disruption in his enviroment, and is in line with:

WOLF V. MCDONALD 418 u.s. 539.

The District court errored in dismissing Petitioner's motion for reconsideration (DOC. 14), SEE: APPENDIX, 1-B, for filing a new claim for which Petitioner must file a separate civil rights complaint. Whereas Petitioner is allowed to amend or make additional findings under, FED. R. CIV. P. 52 (b), and if given proper judicial review would alter the judgment of the District Court to rule in Petitioners favor,

The court has improperly applied **SANDIN (supra)**, to give prison officials the right to practice retaliatory conduct at will, and violate the constitutional rights of prisoners they hold in disfavor for exercising their constitutional rights without any repercussion, or accountability for their actions, with the Eighth Circuit Court of appeals affirming its decision, SEE: APPENDIX, 1-A, but did grant Petitioner's application to proceed in forma pauperis on, December 20, 2018.

Respondents deliberate indifference to the laws of the state of Missouri, R.S.MO. 217.380 that resulted in eighty-three days of wrongfull detention (imprisonment), was a due process violation from the begining when petitioner was later proven innocent of any violation of the rules and the write-up was dismissed and expunged, because there was not probable cause to place Petitioner in AD/SEG, DIS/SEG (hole) at any time. Which places Respondents in violation of Petitioners **FIRST (1st), FOURTH (4th), FIFTH (5th), AND FOURTEENTH (14th) AMMENTMENT RIGHTS THAT ARE PROTECTED RIGHTS FOR ALL.**

Respondants are liable for the unconstitutional procedure that violated: **STATE LAW, R.S.MO. 217.380, and Respondant's, FIRST (1st), FOURTH (4th), FIFTH (5th), and, FOURTEENTH (14th) AMENDMENT RIGHTS**, in their official capacity and also liable in their individual capacity, because Missouri law clearly imposes upon them a duty not to exceed ten (10) days for a minor violation. Respondants did not investigate the validity of the conduct violation before putting Respondant in AD/SEG, (HOLE).

and upon Respondant's grievance did relent that their actions were unconstitutional, and unlawful, without probable cause bein established to start due process which resulted in the dismissal, and expungment of the conduct-violation from Respondant's file.

CONCLUSION

WHEREFORE. Respondant, prays this Supreme Court of The United States to grant the sum of, seventy-five (\$75.00) dollars aday for eighty-three (83) days of wrongful imprisonment, for a total of, six-thousand and twenty-five (\$6,225.00) dollars, for actual damages, and the sum of fifty-thousand (50,000.00) dollars for punitive damages for Respondants deliberate indifference to the constitutional rights of Petitioner.

Pétitioner, prays that this court make a factual determination reguarding why the Inmate sd/seg didnot work a major disruption in the Inmates every day life, because when an Inmate is placed in ad/seg he is given two (2) pair of paints, two (2) T-shirts, two (2) underwear, a religious book, paper, pen, env-velops, and stamps, only. that is not **ATYPICAL** of general populations SEE: APPENXIX, **M-1 through M-5.**

Respondant, prays this Supreme Court OF THE UNITED STATES, to grant all damages sought with a liberal viewing in accordance with: **HANES V. KERNER, 404 U.S. 519, 520,** and **WILKER V. REED 104 F.3d, 156,** and shine enlightenment on the constitutional rights of prisioners that **SANDINE (SUPRA)** allows prision officals to violate without consequence or accountability, PURSUANT TO: **28 U.S.C.S. 1331, (4)(16 MED) UNDER COLOR OF STATE LAW.**

RESPECTFULLY SUBMITTED,

RONALD E. MITCHELL, MO. D.O.C. #525933

STATE OF MISSOURI

DOUNTY OF RANDOLPH
Subscribed and sworn before me this
7 day of March 2019

Teresa A. Lucas

(8)



TERESA A. LUCAS
My Commission Expires
May 29, 2022
Randolph County
Commission #14480795