

APPENDIX A

IN THE
SUPREME COURT OF THE UNITED STATES

WESLEY G. COPELAND SR. -- PETITIONER

vs.

STATE OF KANSAS -- RESPONDENT

APPENDIX TO
PETITION FOR A WRIT OF CERTIORARI

Wesley G. Copeland Sr. #109002

WCF A2

1806 Pinecrest Circle

Winfield, Kansas 67156

NOT DESIGNATED FOR PUBLICATION

No. 112,755

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

WESLEY G. COPELAND SR.,
Appellant.

MEMORANDUM OPINION

Appeal from Chautauqua District Court; ROGER GOSSARD, judge. Opinion filed July 27, 2018.

Affirmed.

Sal Intagliata and Kathryn Stevenson, of Monnat & Spurrier, Chtd., of Wichita, for appellant.

Natalie Chalmers, assistant solicitor general, and *Derek Schmidt*, attorney general, for appellee.

Before MALONE, P.J., BUSER and GARDNER, JJ.

PER CURIAM: Wesley G. Copeland Sr. appeals his convictions of one count of aggravated assault, one count of unlawful manufacture of a controlled substance, multiple counts of drug possession and unlawful possession of drug paraphernalia, and multiple counts of criminal use of a weapon. Copeland argues that the district court (1) erred in denying his pretrial motion to suppress his statements; (2) committed structural error by granting a trial continuance outside of his presence without holding a hearing; and (3) committed structural error in instructing the jury. We find no reversible error and affirm the district court's judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On February 6, 2012, at about 8 a.m., Sedan Police Chief Cash Kimple spoke with Dana Clanton, also known as Dana Copeland. Dana stated that earlier that morning she and her boyfriend, Copeland, were arguing and Copeland became physically violent with her. She stated that she went into her 10-year-old daughter's bedroom to console her. Dana stated that after she laid down next to her daughter, Copeland came into the room and pointed a gun at her. Dana became frightened for herself and her daughter's life. Dana told Kimple that she wanted Copeland out of her home but he refused to leave.

Dana also stated that Copeland was acting paranoid—that he was walking around the house armed with a gun; checking the doors, windows, and under the bed; and he had not eaten or slept for three to four days. Based on the description of Copeland's behavior, Kimple asked Dana if he was using bath salts or methamphetamine. Dana told Kimple that she believed Copeland was using methamphetamine based on his paranoid behavior.

Kimple advised Dana to get a protection from abuse (PFA) order against Copeland and not return to the house. Dana's handwritten PFA petition was consistent with her initial statement to Kimple. Dana also spoke with Kimple and Chautauqua County Sheriff Perry Russell after obtaining the temporary PFA order. Her statements were consistent with her initial description to Kimple of the altercation with Copeland and Copeland's behavior. She gave the officers more information about the firearms Copeland had in the house. Dana stated that she believed, but was not entirely sure, that there was methamphetamine in the house. She stated that she had recently bought Sudafed—that contains pseudoephedrine, a drug compound used in manufacturing methamphetamine—that had disappeared. Dana told the officers to use the back door when they went to the house to serve Copeland with the temporary PFA order because Copeland may be sleeping in the master bedroom and would not hear them at the front door.

Later that day, Kimple and other law enforcement officers went to the house to serve Copeland with the temporary PFA order. The officers used the back entrance and could see Copeland lying on a bed through the glass door. The officers knocked on the door and eventually Copeland told them to come in. Kimple stated that when he entered the house he noted that there was an Uzi submachine gun on the bed and two rifles up against the wall in the bedroom. After Copeland was helped out of bed, Kimple saw a Springfield .45 caliber pistol next to where Copeland was lying. Kimple served Copeland with the PFA order and arrested him for an aggravated assault against Dana.

During the search of the house, Deputy Richard Newby collected many firearms; parts used to make a firearm automatic; and a tactical vest, computer case, and cabinet containing boxes of bullets. In the master bedroom—where Copeland was found earlier—officers located an Uzi submachine gun; two AR-15 rifles, one of which was modified to become an automatic weapon; and a pistol lying on or near the bed.

The officers found a plastic bag containing white pills marked "M358" on a counter in the utility room. Jeff Ryder, a Kansas Bureau of Investigation forensic scientist, later tested and identified the pills as hydrocodone. Officers also found a pill bottle in the master bedroom labeled "Hydrocodone" that had the personal identification information ripped off. Ryder tested the pills inside the bottle and identified various prescription medications, which included hydrocodone pills. The officers also found a red metal can in the utility room that contained several burnt cigarettes. In Wesley Copeland Jr.'s (Copeland's adult son) bedroom, the officers located a cigarette box that appeared to contain one hand-rolled cigarette and a multicolored smoking pipe. Ryder testified that the cigarette tested positive for marijuana and his tests on the smoking pipe detected tetrahydrocannabinol, a psychoactive ingredient in marijuana.

The officers located various ingredients and tools used to manufacture methamphetamine. Cedar Vale Police Chief Wayne Cline assisted in the investigation

due to his training and experience in investigating clandestine laboratories. The officers found a torn up lithium battery, coffee filters, many empty pseudoephedrine blister packs, and a methamphetamine gas generator. They also found syringes and several spoons containing an unknown substance. Ryder later tested and identified the substance on the spoons as methamphetamine and pseudoephedrine. Cline stated that based on his experience, the gas generator had been used within the last few days.

Newby testified that he conducted a computer search on the National Precursor Law Exchange and Oklahoma Drug Tracker System. The systems track individuals' purchases of medication containing pseudoephedrine and revealed that Copeland had made many purchases in Kansas and Oklahoma between October 2011 and January 2012.

On February 17, 2012, the State charged Copeland in case No. 12CR6 with one count of aggravated assault and one count of domestic battery for the incident involving Dana. On April 16, 2012, the State charged Copeland in case No. 12CR13 with one count of unlawful manufacture of a controlled substance; three counts of unlawful possession of drug precursors or paraphernalia; one count of possession of methamphetamine; one count of possession of hydrocodone; one count of possession of marijuana; one count of possession of drug paraphernalia; and five counts of criminal use of a weapon. The State later dismissed one of the counts of criminal use of a weapon.

In June 2013, Copeland filed a motion to suppress statements he made to Kimple during the booking process and to Officer Lee Coate during his transportation to the jail. Copeland argued that the statements should be suppressed because he had invoked his right to counsel and did not voluntarily, knowingly, and intelligently waive his rights.

In February 2014, the district court held a hearing on the motion to suppress. Kimple testified that he read the *Miranda* warnings to Copeland when he was arrested at his residence on February 6, 2012, and Copeland invoked his right to remain silent.

Copeland was booked into jail a short time later, and the State admitted a transcript of the booking process because the video recording had some audio and visual problems. The transcript of the booking interview begins with Kimple asking Copeland his birthdate, driver's license number, and whether he had any other prescription medication other than "Lortabs." Copeland stated in response to the prescription medication question: "There should be pot and . . . meth." This response prompted Kimple to again read the *Miranda* warnings to Copeland, and he again invoked his right to remain silent. Later in the booking process the following exchange occurred:

"[Kimple]: Okay. You got some weapons in [the house] you're not supposed to?
"[Copeland]: I think—that's my father's.
"[Kimple]: Yeah.
"[Copeland]: And, you know, years ago and I just (inaudible)—
"[Kimple]: Okay. Okay. Like I said, I can't get you an attorney that—judge—
"[Copeland]: I understand."

Kimple admitted at the hearing that when he asked Copeland about the weapons at the house, the question did not relate to the booking process. After the question about the weapons, Kimple left the room. Then, the following exchange occurred:

"[Copeland]: Is Cash [Kimple] standing there?
"[Unidentified male]: No.
"[Coate]: You want him?"
"[Copeland]: Please.
"[Coate]: Hey, Cash?
"[Kimple]: Yes, sir.
"[Copeland]: I would really appreciate a cigarette. And so you know, the—the meth I used, I made.
"[Kimple]: Oh, okay. Okay.
"[Copeland]: I take responsibility for it."

Coate also testified at the hearing that he transported Copeland to the Elk County jail. Coate stated that he did not ask Copeland any questions during the transport. But Coate testified that Copeland told him during the transport that there was hydrochloric acid underneath a plastic bucket in the tool room in the basement and that there was marijuana in Wesley Jr.'s bedroom.

After hearing the evidence, the district court denied suppression of Copeland's statements made to Coate during his transport, finding that the statements were voluntary and not the result of questioning. The district court later denied the motion to suppress Copeland's statements made during the booking process. The district court found that Kimple's question about the weapons at the house was a routine booking question. As for Copeland's statement expressing responsibility for the methamphetamine, the district court found the statement was voluntary and not the result of a question by Kimple.

In July 2014, the State brought Copeland to trial before a jury. Dana testified at trial that her prior statements about Copeland becoming physically violent with her were lies, but she stated that Copeland did point a gun at her on February 6, 2012. The State admitted a video recording of Wesley Jr. talking with Undersheriff Nick Reed in February 2013. In the video, Wesley Jr. stated that he knew Copeland was cooking "dope" at the residence. But Wesley Jr. testified at trial and disputed the statements he made in the video interview with Reed. Wesley Jr. testified that he made the statements because he wanted to strike a deal with the State in his own criminal case. Wesley Jr. also testified that about 80 percent of the items in the basement belonged to him.

The jury found Copeland guilty of all charges, except the jury acquitted him on the charge of domestic battery. In September 2014, the district court sentenced Copeland in both cases to a controlling term of 162 months' imprisonment. Additional facts will be discussed to address the issues. Copeland timely appealed.

MOTION TO SUPPRESS

Copeland first argues that Kimple violated his right to counsel during the booking process when he asked Copeland whether he had weapons that he should not have in his home. Copeland argues that because his rights were violated here, all later statements he made to law enforcement officers required suppression because substantial evidence does not support that he validly waived his *Miranda* rights.

"When reviewing a motion to suppress evidence, the factual underpinnings of the district court's decision are reviewed for substantial competent evidence and the ultimate legal conclusion is reviewed *de novo*." *State v. Cleverly*, 305 Kan. 598, 604, 385 P.3d 512 (2016). "Substantial competent evidence is legal and relevant evidence a reasonable person could accept to support a conclusion." *State v. Bird*, 298 Kan. 393, 399, 312 P.3d 1265 (2013). An appellate court "normally gives great deference to the factual findings of the district court. The appellate court does not reweigh evidence, assess the credibility of witnesses, or resolve conflicts in evidence. [Citations omitted.]" *State v. Talkington*, 301 Kan. 453, 461, 345 P.3d 258 (2015).

The parties do not contest the district court's findings that Copeland invoked his right to counsel. Nor do the parties dispute that Copeland was in custody during the booking process and the transport to Elk County Jail. Instead, the issue is whether Copeland was subject to a custodial interrogation when he made the statements.

Law enforcement officers need not administer *Miranda* warnings before questioning every person; but the procedural safeguards are triggered when a person is both "(1) in custody and (2) subject to interrogation. A custodial interrogation is defined as 'questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom in any significant way.' [Citations omitted.]" *State v. Warrior*, 294 Kan. 484, 496, 277 P.3d 1111 (2012).

Did Kimple interrogate Copeland during the booking process when he asked Copeland whether he had illegal weapons at his house?

In *Rhode Island v. Innis*, 446 U.S. 291, 300, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980), the United States Supreme Court explained that an interrogation as conceptualized in *Miranda v. Arizona*, 384 U.S. 291, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966), "must reflect a measure of compulsion above and beyond that inherent in custody itself." The Court held that an interrogation occurs "whenever a person in custody is subjected to either express questioning or its functional equivalent." 446 U.S. at 300-01.

In *State v. Garcia*, 233 Kan. 589, Syl. ¶ 6, 664 P.2d 1343 (1983), the Kansas Supreme Court held that the routine gathering of background biographical information for booking purposes from an accused after he or she had asserted their right to remain silent or right to counsel does not constitute a custodial interrogation under *Innis* and *Miranda*. In *Garcia*, the defendant argued that a detective violated his right against self-incrimination and right to counsel when he asked questions from a "personal history sheet," which included his name, address, physical description, description of his car, names and addresses of relatives, prior arrests, and his parole officer. 233 Kan. at 602-03. In sum, the court held that the five-minute interview did not constitute an "interrogation" under *Miranda* and *Innis* because "none of the questions asked were designed to, nor in actuality did, elicit any information concerning the crime charged or the appellant's involvement in the crime." 233 Kan. at 607.

Copeland asserts that the district court erred in denying his motion to suppress because his rights were violated when Kimple asked whether he had any weapons that he was not supposed to have in his home. We agree. The district court improperly classified Kimple's question about the weapons in Copeland's home as a routine booking question. The question was not helpful in identifying or processing Copeland into jail or for assessing available pretrial services. Also, it had the effect of eliciting an incriminating

response about Copeland's involvement in the crimes charged because Copeland was arrested for aggravated assault based, in part, on Dana's statements to Kimple that Copeland pointed a gun at her. Thus, the district court erred in denying Copeland's motion to suppress the question and response about weapons in Copeland's home.

A district court's erroneous admission of statements made in violation of a defendant's Fifth Amendment rights is subject to the constitutional harmless error review. *State v. Salary*, 301 Kan. 586, 607, 343 P.3d 1165 (2015). So to find the error harmless, "this court must be persuaded beyond a reasonable doubt that there was no impact on the trial's outcome, i.e., there is no reasonable possibility that the error contributed to the verdict. As the party benefitting from the error, the State bears the burden of proving the error was harmless. [Citations omitted.]" 301 Kan. at 607.

We agree with the State that the district court's failure to suppress the weapons-related question and response was harmless because the evidence about the weapons was properly admitted based on the lawful search of the home. In other words, because the State properly admitted evidence about the location and the possession of weapons in the lawful search of the home, there was no reasonable possibility that the error in admitting Copeland's statement about the same weapons affected the outcome of the trial. Also, though the question was improper, Copeland's response did not reveal any incriminating information. Instead, Copeland responded that any illegal weapons in the house related in some way to his father.

Did Kimple's improper question render all of Copeland's later statements inadmissible?

Copeland argues that because Kimple violated his right to counsel in asking the weapons-related question, all statements made after that violation should be suppressed. In particular, Copeland made a brief statement to Kimple at the end of the booking

process in which Copeland took responsibility for making the methamphetamine. Copeland also made statements to Coate during his transport to the jail.

Generally, when a defendant invokes his or her right to counsel during a custodial interrogation, "all statements made after the invocation of the right must be suppressed." *Salary*, 301 Kan. at 604. But Copeland's argument assumes that he was subject to an "interrogation" when he made the statements to the police. As the district court found, Copeland's later statements were voluntary and not the result of police questioning.

We agree with the district court that Copeland's statement taking responsibility for the methamphetamine was voluntary and was not the result of police questioning. The record reflects that the booking process had ended and Kimple had left the room. Then, Copeland called for Kimple to return to the room so he could ask for a cigarette. Kimple did not ask a question before Copeland made the statement about the methamphetamine. Although Copeland previously had invoked his right to counsel, he waived that right and voluntarily made a statement to Kimple about the methamphetamine without being subjected to express questioning or its functional equivalent. Kimple's prior improper question about the weapons did not render Copeland's later statement inadmissible.

During his transport to the Elk County Jail, Copeland told Coate that there was hydrochloric acid in the basement of the house and that there was marijuana in Wesley Jr.'s bedroom. The district court found that Copeland was not subject to an interrogation when he made the statements to Coate. We agree. Substantial evidence supports a finding that Copeland waived his right to counsel in making the statements. Coate testified at the hearing on the motion to suppress that he did not question Copeland when he moved him from the booking room to the vehicle and that the only conversation during the transport was Copeland's voluntary statements. The district court did not err in admitting the statements Copeland made to Coate during his transport to jail.

Finally, in discussing harmless error, Copeland briefly argues that his assertions of his right to counsel were improperly admitted at trial. These statements were not included as part of Copeland's pretrial motion to suppress. Generally, a point raised incidentally in a brief and not argued therein is deemed abandoned. *State v. Sprague*, 303 Kan. 418, 425, 362 P.3d 828 (2015). More importantly, we cannot consider whether there was error in the admission of these statements because there was no contemporaneous objection to these statements at trial. See K.S.A. 60-404. Thus, any issue relating to the admission of Copeland's invocation of his right to counsel is not preserved.

TRIAL CONTINUANCE OUTSIDE OF COPELAND'S PRESENCE

For the first time on appeal, Copeland argues that the district court violated his right to be present at a critical stage of his trial when it issued a written order, without holding a hearing, which delayed his trial and granted the parties' agreement to strike the trial from the docket. Copeland argues that this violation amounted to structural error requiring the reversal of his convictions.

Criminal defendants charged with a felony have a constitutional and statutory right to be present at all critical stages of their trial. U.S. Const. amend. V, VI, and XIV; Kan. Const. Bill of Rights, § 10; K.S.A. 2017 Supp. 22-3405(a); *State v. Davis*, 284 Kan. 728, 731, 163 P.3d 1224 (2007). Whether a defendant's right to be present at a critical stage of the trial was violated presents a question of law subject to unlimited review. *State v. Wright (Wright I)*, 305 Kan. 1176, 1178, 390 P.3d 899 (2017).

"Generally, a theory not asserted before the trial court—even an issue raising a constitutional question—cannot be raised for the first time on appeal. [Citations omitted.]" *State v. Phillips*, 299 Kan. 479, 493, 325 P.3d 1095 (2014). The Kansas Supreme Court recognizes three exceptions to this general rule:

"(1) The newly asserted theory involves only a question of law arising on proved or admitted facts and is determinative of the case; (2) consideration of the theory is necessary to serve the ends of justice or to prevent the denial of fundamental rights; and (3) the district court is right for the wrong reason. [Citations omitted.]" 299 Kan. at 493.

Copeland asserts that the first two exceptions apply. Because we agree that at least the second exception applies here, we will consider this claim for the first time on appeal. See *State v. Knighten*, 51 Kan. App. 2d 417, 427, 347 P.3d 1200 (2015) (defendant's right to be present at all critical stages of trial addressed by court for first time on appeal).

Additional facts

Copeland was arraigned in both cases (12CR6 and 12CR13) on May 16, 2012, while in custody. On October 10, 2012, the district court consolidated the two cases. At that time, defense counsel had requested a continuance, and Copeland's speedy trial clock was tolled. On January 23, 2013, Copeland's counsel requested another continuance and agreed to a trial date of June 24, 2013. But defense counsel also placed the State and the court on notice that Copeland wanted to have the case tried "as soon as possible."

Five days before the June 24, 2013 trial date, the district court found that another continuance was necessary because material evidence was unavailable at that time. The district court rescheduled the trial to August 5, 2013.

Meanwhile, on July 8, 2013, Copeland posted a surety bond and was released from custody. On July 29, 2013, Copeland's attorney filed a request for another continuance to review newly discovered evidence. At a hearing on July 31, 2013, Copeland waived his speedy trial rights to allow his counsel time to review the evidence, and the district court rescheduled the trial for January 6, 2014.

However, on November 12, 2013, counsel for the State requested a continuance because he had surgery and would be unavailable for the January 6, 2014 trial date. Without holding a hearing, the district court granted the continuance "by agreement of the parties" and removed the trial from the court's calendar. The court later rescheduled the trial to begin on May 12, 2014.

On March 28, 2014, the State successfully argued a motion to revoke Copeland's bond, and Copeland was placed back in custody on April 1, 2014. The district court again continued the trial on May 12, 2014. Copeland remained in custody until his trial began on July 10, 2014, and he was also facing a charge in Chautauqua County case No. 14CR18 for violating a protection order.

Did the district court err by granting a trial continuance outside of Copeland's presence?

The Kansas Supreme Court first addressed a defendant's right to be present at a continuance hearing in *State v. Brownlee*, 302 Kan. 491, 354 P.3d 525 (2015). In that case, defense counsel requested and was granted a continuance at a pretrial hearing without the defendant being present at the hearing, and the continuance was assessed to the defendant for speedy trial purposes. 302 Kan. at 494. The defendant later objected to the continuance and argued that his statutory speedy trial right was violated because the court erroneously assessed the continuance to the defendant. 302 Kan. at 507. The defendant argued that his statutory and constitutional right to be present at all critical stages of the proceedings had been infringed because he was not given the opportunity to object in person to the critical continuance. 302 Kan. at 507.

Our Supreme Court ultimately held that the failure to allow the defendant to be present at the continuance hearing was error under K.S.A. 2014 Supp. 22-3208(7), and the defendant did not acquiesce in the continuance sought by defense counsel at the hearing, so the delay caused by the continuance should not have been counted against the

defendant for statutory speedy trial purposes. 302 Kan. at 508. But the court went on to hold that under K.S.A. 2012 Supp. 22-3402(g), the Legislature, which created the statutory speedy trial right in the first place, eliminated the remedy for its violation in certain circumstances when a delay initially attributed to the defendant is later charged to the State for any reason. 302 Kan. at 509-11. Thus, the defendant was denied any relief for the violation of his right to be present at the hearing. 302 Kan. at 511.

Next, in *State v. Dupree*, 304 Kan. 43, Syl. ¶ 2, 371 P.3d 862 (2016), the court reaffirmed its holding in *Brownlee* that a district court errs when it grants a defense counsel's request for a trial continuance outside the defendant's presence:

"Under the plain language of K.S.A. 22-3402, a continuance resulting from a defendant's request stays the running of the statutory speedy trial period. When the request is made by defense counsel, the request for continuance is attributable to the defendant unless the defendant timely voices an objection. Because a defendant's disagreement matters in a statutory speedy trial analysis, a defendant must have an opportunity to be present to express that disagreement."

But like in *Brownlee*, the *Dupree* court held that under K.S.A. 2014 Supp. 22-3402(g), the Legislature eliminated the remedy for a violation of the speedy trial statute in certain circumstances when a delay initially attributed to the defendant is later charged to the State for any reason. 304 Kan. at 50-51. The court went on to hold that K.S.A. 2014 Supp. 22-3402(g) does not create a vested right to dismissal, so the defendant was not entitled to any relief for the violation of his right to be present at the continuance hearing even though his statutory speedy trial rights would have otherwise been violated before subsection (g) went into effect. 304 Kan. at 57.

In *Wright I*, 305 Kan. at 1178, the defendant again argued that his statutory and constitutional right to be present at every critical stage was violated when his attorney

requested and received a trial continuance outside of his presence which affected his statutory speedy trial right. After briefly discussing its rulings in *Dupree* and *Brownlee*, the court stated: "We have no hesitation in ruling that [the defendant's] right to be present at all critical stages of his trial was violated." 305 Kan. at 1178. But this time, the court found that it was necessary to remand the case to the district court for factual findings to permit the Supreme Court to determine whether the violation of the defendant's right to be present amounted to harmless error. 305 Kan. at 1179-80. Specifically, the Supreme Court ordered the district court to make factual findings on "'whether [the defendant's] presence would have made any difference in the decision to grant the continuance.'" *State v. Wright (Wright II)*, 307 Kan. 449, 451, 410 P.3d 893 (2018).

On remand, the district court conducted an evidentiary hearing where counsel and the judge who presided over the continuance hearing testified. After hearing the evidence, the district court found that even if the defendant had been present at the continuance hearing, the district court would have granted the continuance and charged the time to the State, but the State would have still brought the case to trial within the statutory deadline. 307 Kan. at 452. Based on these findings, the Supreme Court found that the violation of the defendant's right to be present at all critical stages was harmless error. 307 Kan. at 458. In a concurring opinion, two justices stated that they disagreed with the some of the majority's conclusions on harmless error but pointed out that because the defendant was only asserting a violation of his statutory speedy trial right, as opposed to a constitutional speedy trial question, the district court's findings did not matter anyway because of the effect of K.S.A. 2013 Supp. 22-3402(g) and the court's interpretation of that provision in *Brownlee*. *Wright II*, 307 Kan. at 461-62 (Johnson, J., concurring).

Returning to our facts, the issue here differs somewhat from the continuances granted in *Brownlee*, *Dupree*, and *Wright* where defense counsel requested and was granted a continuance at a hearing outside the defendant's presence. Here, the record reflects that the continuance was based on an agreement between the parties and was

granted in a written order. But the law in Kansas is clear that the granting of a trial continuance is a critical stage of a criminal proceeding, requiring the defendant's presence. Because the district court granted the trial continuance outside of Copeland's presence, we agree with Copeland that the district court's action violated his right to be present at a critical stage of the proceedings.

The district court's error was not structural.

Copeland argues that the district court's error in granting the trial continuance in November 2013 outside of his presence amounted to structural error requiring the reversal of his convictions. An appellate court's consideration of whether an error is structural or whether it may instead be declared harmless is a question of law over which appellate courts have unlimited review. *State v. McDaniel*, 306 Kan. 595, 600, 395 P.3d 429 (2017); *State v. Hill*, 271 Kan. 929, 934, 26 P.3d 1267 (2001), *abrogated on other grounds by State v. Voyles*, 284 Kan. 239, 160 P.3d 794 (2007).

"Structural errors 'are so intrinsically harmful as to require automatic reversal (i.e., "affect substantial rights") without regard to their effect on the outcome.' *Neder v. United States*, 527 U.S. 1, 7, 119 S. Ct. 1827, 144 L. Ed. 2d 35 (1999)." *Hill*, 271 Kan. at 934. "Errors are structural when they defy harmless-error analysis because they affect the framework within which the trial proceeds." *State v. Johnson*, 53 Kan. App. 2d 734, 737, 391 P.3d 711, *rev. granted* 306 Kan. 1325 (2017). But only a few constitutional errors have been found as structural, such as the total deprivation of counsel, the lack of an impartial judge, the denial of a right to self-representation, the violation of a right to a public trial, and an erroneous reasonable doubt instruction. 53 Kan. App. 2d at 736; see *United States v. Marcus*, 560 U.S. 258, 263, 130 S. Ct. 2159, 176 L. Ed. 2d 1012 (2010).

Copeland argues the district court committed a structural error when it failed to hold a hearing on the parties' motion to strike his jury trial from the docket because this

court's review of the issue will only amount to a speculative inquiry. But it is clear from our discussion of the above cases that the Kansas Supreme Court has never viewed a violation of the defendant's right to be present at a continuance hearing as structural error, even though the error amounts to a violation of the defendant's constitutional right to be present at all critical stages. In fact, in every case in which our Supreme Court has addressed this issue, the court ultimately found the error to be harmless.

We reject Copeland's claim that the district court committed structural error by granting a trial continuance outside of his presence without holding a hearing. While the district court erred in violating Copeland's right to be present at all critical stages, the error does not affect the entire framework of the trial so as to constitute structural error. Like most trial errors, we must analyze whether the violation of Copeland's right requires us to reverse his convictions rather than being harmless.

Harmless error analysis

Because the district court's error was not structural, a harmless error analysis is appropriate. As we have stated, to find a constitutional error harmless, the appellate court must be persuaded beyond a reasonable doubt that there was no impact on the trial's outcome, i.e., there is no reasonable possibility that the error contributed to the verdict. *Salary*, 301 Kan. at 607. As the party benefitting from the error, the State bears the burden of proving the error was harmless. 301 Kan. at 607.

The record is clear that Copeland has never asserted a violation of his constitutional right to a speedy trial. The only prejudice he asserts from the violation of his right to be present is a possible violation of his statutory speedy trial right. But Copeland's claim differs from the defendants' claims in *Brownlee*, *Dupree*, and *Wright* because Copeland does not specifically assert that the district court's November 2013 trial continuance extended the speedy trial clock beyond the statutory deadline.

Here, in November 2013, the district court granted a trial continuance outside of Copeland's presence without holding a hearing. The trial continuance was from January 6, 2014, to May 12, 2014. Copeland was not in custody when the trial continuance was granted. But on March 28, 2014, the State successfully argued a motion to revoke Copeland's bond, and Copeland was placed back in custody on April 1, 2014. He remained in custody until his trial began on July 10, 2014, and he was also facing a charge in Chautauqua County case No. 14CR18 for violating a protection order.

Although Copeland asserted a statutory speedy trial claim in district court, he did not expressly argue that the district court's November 2013 order violated his speedy trial right. While this appeal was pending, this court granted a joint request to remand to the district court to reconstruct a hearing held on July 7, 2014, addressing Copeland's motion to dismiss. But Copeland did not request a remand for additional factual findings about the November 2013 continuance order, nor does he ask for a remand now. He simply argues that the violation of his right to be present was structural error.

The district court's November 2013 order granted a continuance "by agreement of the parties" and temporarily removed the trial from the court's calendar. Copeland was being held on another charge for part of that time, so any delay after he was being held on multiple charges could not have violated the speedy trial statute. See K.S.A. 2017 Supp. 22-3402(a). But even if we assume that the November 2013 trial continuance extended the speedy trial clock beyond the statutory deadline, and even if we also assume that the district court would have assessed the continuance solely to the State had Copeland been present to object, he still faces the obstacle caused by K.S.A. 2017 Supp. 22-3402(g).

As we have discussed, K.S.A. 2017 Supp. 22-3402(g) provides that if a delay initially attributed to the defendant is later charged to the State for any reason, such delay shall not be used as a ground for dismissing a case or for reversing a conviction unless the delay would result in a violation of the constitutional right to a speedy trial or there is

prosecutorial misconduct related to the delay. Copeland is not claiming a constitutional speedy trial violation, nor is he claiming prosecutorial misconduct related to the delay. He is asking us to reverse his convictions for the violation of his right to be present when his trial was continued in November 2013, and the only prejudice he asserts from that violation is that the trial delay initially attributed him, in part, should have been charged solely to the State. That is the precise remedy the statute now bars.

We understand that the State bears the burden of proving any error was harmless. *Salary*, 301 Kan. at 607. But based on the claims Copeland is asserting and the record before us in this case, we find that he is not entitled to a reversal of his convictions based on the violation of his right to be present when his trial continuance was granted. We cannot discern any reason to remand this case to the district court for additional factual findings on this issue. Thus, we conclude that the district court's error in granting a trial continuance outside of Copeland's presence was harmless.

ERROR IN INSTRUCTING JURY

Finally, Copeland argues that the district court erred in instructing the jury that it could find him guilty of the crimes if the State proved he committed one element of the crimes. Copeland asserts that the error requires automatic reversal as structural error because it lowered the State's burden to prove him guilty beyond a reasonable doubt.

Typically, this court reviews jury instructional errors under a four-step approach:

"""(1) First, the appellate court should consider the reviewability of the issue from both jurisdiction and preservation viewpoints, exercising an unlimited standard of review; (2) next, the court should use an unlimited review to determine whether the instruction was legally appropriate; (3) then, the court should determine whether there was sufficient evidence, viewed in the light most favorable to the defendant or the requesting party, that would have supported the instruction; and (4) finally, if the district court erred, the

appellate court must determine whether the error was harmless, utilizing the test and degree of certainty set forth in *State v. Ward*, 292 Kan. 541, 256 P.3d 801 (2011), *cert. denied* 565 U.S. 1221 (2012)." [Citation omitted.]" *State v. Fisher*, 304 Kan. 242, 256-57, 373 P.3d 781 (2016).

Copeland concedes that he did not object to the district court's culpable mental state instruction that he now challenges as erroneous on appeal. Due to his failure to object, this court will review the alleged error—if the error is not found structural—under the clearly erroneous standard. See K.S.A. 2017 Supp. 22-3414(3); *State v. Brown*, 306 Kan. 1145, 1164, 401 P.3d 611 (2017). The clearly erroneous standard is a two-step review which requires "[this court to] first determine whether the instructions were legally and factually appropriate, employing an unlimited review of the entire record. If error is found, 'the defendant must firmly convince the court the jury would have reached a different result without the error.' [Citations omitted.]" 306 Kan. at 1164.

Copeland argues that the district court diluted the State's burden of proof based on the following jury instruction:

"Instruction No. 21

"The State must prove that the defendant committed one element of the crime of manufacture of methamphetamine, possession of ephedrine, possession of lithium, possession of coffee filters, Coleman camp fuel and a gas generator, possessed methamphetamine, possessed hydrocodone, possessed marijuana, and possessed paraphernalia.

"A defendant acts intentionally when it is the defendant's desire or conscious objective to do the act complained about by the State.

"The State must prove that the defendant knowingly committed one element of the crime of aggravated assault with a deadly weapon (gun), domestic battery, possessed an Uzi submachine gun, possessed an AR-15 rifle, possessed a Springfield 1911 pistol, and possessed a .22 pistol.

"A defendant acts knowingly when the defendant is aware of the nature of his conduct that the State complains about, the circumstances in which he was acting, and that his conduct was reasonably certain to cause the result complained about by the State." (Emphases added.)

PIK Crim. 4th 52.010 (2012 ed.) used at Copeland's trial provides, in part:

"The State must prove that the defendant committed [one element of] the crime insert one of the following:

- "intentionally."
- "or
- "knowingly."
- "or
- "recklessly."

It appears that the district committed a clerical error in preparing Instruction No. 21 for the jury. In the first paragraph of Instruction No. 21, the district court failed to delete the bracketed words "one element of" and the court also failed to insert "intentionally" as the appropriate culpable mental state. Yet the district court defined the term "intentionally" in the very next paragraph. Likewise, the court failed to delete the bracketed words "one element of" in the third paragraph of Instruction No. 21, but it did insert and define the term "knowingly" as the appropriate culpable mental state. Apparently no one noticed the errors because neither party objected to the instruction.

Instruction No. 21 is not legally appropriate. The State concedes the first sentence in Instruction No. 21 is not legally appropriate because it omits the word "intentionally." More importantly, the instruction incorrectly directed the jury that the State must prove only one element of the crimes charged.

Copeland argues that the error in Instruction No. 21 was structural. As stated above, this court's analysis of whether an error is structural or whether it may instead be

declared harmless is a question of law over which appellate courts have unlimited review. *McDaniel*, 306 Kan. at 600; *Hill*, 271 Kan. at 934. Structural errors "affect the framework within which the trial proceeds." *Johnson*, 53 Kan. App. 2d at 737. As applied to jury instructions, only a misstatement of the State's burden of proof has been held to be a structural error. *Sullivan v. Louisiana*, 508 U.S. 275, 281-82, 113 S. Ct. 2078, 124 L. Ed. 2d 182 (1993); *Miller v. State*, 298 Kan. 921, 938-39, 318 P.3d 155 (2014). Other jury instruction errors, such as omitting an element of the charged crimes from the jury instructions, are subject to a harmless error standard. See *Neder*, 527 U.S. at 9-10.

In *Miller*, the petitioner complained that his appellate counsel provided ineffective assistance of counsel in failing to challenge an erroneous reasonable doubt instruction. The Kansas Supreme Court agreed and explained:

"The incorrect written jury instruction at issue read: 'If you have a reasonable doubt as to the truth of *each* of the claims required to be proved by the State, you must find the defendant not guilty.' The word 'each' was substituted for 'any' in what was the standard PIK jury instruction at that time. See PIK Crim. 3d 52.02 (2004 Supp.). This substitution effectively told the jury it could acquit Miller only if it had a reasonable doubt as to all of the elements the State was required to prove—rather than acquitting him if it had a reasonable doubt as to any single element. As admitted by the State, the written instruction was plainly wrong." 298 Kan. at 923.

Copeland argues Instruction No. 21 diluted the State's burden of proof because "a literal understanding of the erroneous . . . instruction directed the jury to find [Copeland] guilty if it had no reasonable doubt as to the truth on *one element* of each charged offense." Copeland's argument has merit when Instruction No. 21 is read in isolation. But appellate courts must examine "jury instructions as a whole, without focusing on any single instruction, in order to determine whether they properly and fairly state the applicable law or whether it is reasonable to conclude that they could have misled the jury.' [Citations omitted.]" *State v. Mattox*, 305 Kan. 1015, 1020, 390 P.3d 514 (2017).

Copeland concedes the district court properly instructed the jury using the individual elements instruction for each applicable charge. Each elements instruction told the jury: "To establish this charge, each of the following claims must be proved" and listed the elements the State had to prove. Likewise, Copeland does not argue that the reasonable doubt instruction—on its own—is erroneous, and the district court here properly instructed the jury on burden of proof as follows:

"Instruction No. 23

"The State has the burden to prove the defendant is guilty. The defendant is not required to prove he is not guilty. You must presume that he is not guilty unless you are convinced from the evidence that he is guilty.

"The test you must use in determining whether the defendant is guilty or not guilty is this: *If you have a reasonable doubt as to the truth of any of the claims required to be proved by the State, you must find the defendant not guilty. If you have no reasonable doubt as to the truth of each of the claims required to be proved by the State, you should find the defendant guilty.*" (Emphases added.)

Significantly, the error here is distinguishable from the structural error in *Miller* where the actual reasonable doubt instruction unconstitutionally defined the State's burden to prove the crime beyond a reasonable doubt. The error in the reasonable doubt instruction in *Miller* tainted the entire set of instructions given to the jury to the extent that the instructions as a whole did not fairly and properly state the applicable law on the State's burden of proof. Here, the reasonable doubt instruction, as well as the elements instruction for each individual charge, properly instructed the jury that the State must prove each of the claims asserted by the State beyond a reasonable doubt.

The parties' closing arguments provide additional support that the jury was properly instructed on the State's burden of proof. The State explained during closing argument that it needed to prove all the elements of the charges. During closing, the State reviewed each charge and discussed the evidence that supported the particular elements

of each charge. The defense counsel also reviewed the burden of proof instruction in closing arguments, stating: "The burden of proof is applicable to each and every element of the claim that comprises the charge." Defense counsel also reviewed the reasonable doubt test with the jury. Finally, in rebuttal closing, the State also stated that, based on the evidence, it had proven every element of the case.

Based on a review of the instructions as whole and the parties' closing arguments, the jury was properly instructed on the State's burden of proof beyond a reasonable doubt. The jury instructions as a whole did not dilute the State's burden to prove Copeland guilty beyond a reasonable doubt to the extent that it affected the entire framework of the trial. We conclude that the error in Instruction No. 21 does not constitute structural error.

Copeland has not argued that his convictions require reversal under the clear error standard. We find there was no clear error for the same reasons that we find there was no structural error. Moreover, the evidence supporting the charges against Copeland was substantial. Copeland does not firmly convince us that the jury would have reached a different result with a proper culpable mental state instruction. Instruction No. 21 along with the jury instructions as a whole were not clearly erroneous.

Affirmed.

APPENDIX B

IN THE
SUPREME COURT OF THE UNITED STATES

WESLEY G. COPELAND SR. – PETITIONER

vs.

STATE OF KANSAS -- RESPONDENT

APPENDIX TO
PETITION FOR A WRIT OF CERTIORARI

Wesley G. Copeland Sr. #109002

WCF A2

1806 Pinecrest Circle

Winfield, Kansas 67156

For Court Use Only (Seal)

FILED

2014 SEP -3 PM 1:10

MARY E. KABEL
CLERK OF THE COURT
KANSAS CITY, KS
RECEIVED

2012 KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT
Please use Journal Entry based on OFFENSE DATE

SECTION I. CASE IDENTIFYING INFORMATION

2 STATE v. Wesley G. Copeland SR		<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	1. Transaction No. 301011200014
5 County CQ	6 Court Case Number 12-CR6	2 Court O.R.I. Number KSO100000	4 K.B.I. Number KS33030927
		7. Sentencing Judge HONORABLE Judge Roger Gossard	8. Sentencing Date September 3, 2014
9. 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 Counsel Name (please print) Michael Brown			
10. Type of Proceeding (Trial) <input type="checkbox"/> Bench Trial (includes a plea on stipulated facts) <input type="checkbox"/> Guilty Plea		<input checked="" type="checkbox"/> Jury Trial <input type="checkbox"/> Nolo contendere Plea	
11. Date of Conviction: July 14, 2014			
12. Pre-Trial Status of Offender <input type="checkbox"/> In Custody <input 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 checked="" type="checkbox"/> H <input 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: AGGRAVATED ASSAULT			
Count No.: 1	Date of Offense: February 6, 2012	<input checked="" type="checkbox"/> Designated by court as domestic violence case based upon special finding (see #13 this section)	
2. K.S.A. Title, Section, Subsection(s): 21-5412(b)(1)			
<input type="checkbox"/> Attempt (K.S.A. 2011 Supp. 21-5301) <input type="checkbox"/> Conspiracy (K.S.A. 2011 Supp. 21-5302) <input type="checkbox"/> Solicitation (K.S.A. 2011 Supp. 21-5303)			
3. Grade of Offense: (Check one in each row.) <input checked="" type="checkbox"/> Felony, Severity Level 7 <input type="checkbox"/> Misdemeanor, Class _____ <input checked="" type="checkbox"/> Person <input type="checkbox"/> Nonperson			
4. Offense Category: <input checked="" type="checkbox"/> Nondrug <input type="checkbox"/> Drug <input type="checkbox"/> Off-grid <input type="checkbox"/> Nongrid			
5. Presumptive Sentencing Range: (Enter terms from appropriate grid.) Aggravated 14 Standard 13 Mitigated 12			
Check applicable box(es) <input checked="" type="checkbox"/> Presumptive Prison <input type="checkbox"/> Presumptive Probation <input type="checkbox"/> Border Box <input type="checkbox"/> Drug Treatment for up to 18 months. K.S.A. 2011 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 PRESENCE INVESTIGATION FORM PURSUANT TO K.S.A. 2011 Supp. 22-3439 AND A DOCUMENT CONTAINING INFORMATION REQUIRED BY K.S.A. 2011 Supp. 22-3428.
PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION.

Case No. 12-CR6

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

(PAGE 2)

6. **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): #1-Person Felony Committed with a Firearm

7. **SPECIAL FINDING** that the crime was SEXUALLY MOTIVATED pursuant to the KS Offender Registration Act

7a. Did the court make a special finding that the crime was sexually motivated? Yes No

7b. IF YES to 7a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15)) Yes No

7c. IF YES to 7a and NO to 7b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

8. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2011 Supp. 21-6626)
IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

9. Is offender being sentenced pursuant to K.S.A. 2011 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

10. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)?
IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

11. 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

12. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 2011 Supp. 21-5709(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

13. Determination of domestic violence case designation

13a. Did offender, as determined by the trier of fact, commit a domestic violence offense? Yes No

13b. If YES to 13a 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? Yes No

13c. If YES to 13a and NO to 13b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX. DV Case

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 13 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
** or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months (K.S.A. 2011 Supp. 21-6805(g))
Ballistic Resistant Material: 30 months (K.S.A. 2011 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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 2011 Supp. 22-3716(e) Lifetime Postrelease

4. Electric Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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
DUI 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. 2011 Supp. 21-6604 (a)(11))

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

Rev. 11/2012

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

(PAGE 3)

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. 2011 Supp. 21-6824 Other: _____

Probation Supervision to: Court Services Community Corrections Unsupervised

County Jail Time Imposed AS A CONDITION OF PROBATION: _____ days
 ** Assignment to Correctional Conservation Camp

Comments: _____

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. 2011 Supp. 22-3717(d)(1)(D)(i)
 ("Sexually motivated" defined in K.S.A. 2011 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)

2. Costs Ordered:

Total Restitution (Please complete #3 below.)

Court Costs (including surcharge)

Total Fines (*See Below)

DNA Database Fee (K.S.A. 21-2511 & 75-724)

Extradition Costs

Domestic Violence Special Program Fee

Apprehension Fee (Escape/Agg. Escape)

Alcohol and/or Drug Evaluation Fee (offenses before 7/1/11)

Witness Fee

KBI Lab Fee

Other Lab Fee

Domestic Violence Assessment/Recommendations

\$	Correctional Supervision Fee (Felony \$120; Misd. \$60)	\$ 420.00
\$ 193.00	BIDS Attorney Fee <input checked="" type="checkbox"/> Waived	\$ 722.12
\$	BIDS Application Fee	\$ 100.00
\$ 200.00	Court-Appointed Attorney Fee	\$
\$	Community Corrections Fee (offenses after 1/4/07)	\$
\$	Booking/Fingerprint Fee	\$ 45.00
\$	Reward Reimbursement	\$
\$	Children's Advocacy Center Assessment Fee	\$
\$	Medical Costs/Expenses Reimbursement	\$
\$	SB 123 Assessment Fee (\$200)	\$
\$	SB 123 Offender Reimbursement (\$100)	\$
\$	Other: _____	\$
		TOTAL COSTS \$

Includes fine for DUI offense committed on or after 7/1/11. Clerk will send \$250 to the state treasurer.

3. Restitution to be paid as follows:

Amount Name and Address

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

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

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT
SECTION VI: RECAP OF SENTENCE

(PAGE 4)

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): _____

 For each count, the Court pronounced the complete sentence, including the maximum potential good time percentage. K.S.A. 2011 Supp. 21-6804(e)(2) and 21-6805(c)(2).2. Postrelease Supervision Term: 12 months 24 months 36 months 60 months No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease3. Electric Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))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. 2011 Supp. 21-6824. Extended Period K.S.A. 2011 Supp. 21-6608(c)(5) for: _____ months Other: _____

**Correctional Conservation Camp

5. Jail Credit: Enter dates (m/d/yy only) and days of potential jail credit 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-CQ	From: 2/6/12	To: 7/3/13	= 513 Days	<input checked="" type="checkbox"/> A <input type="checkbox"/> N	*Location- From:	To:	= Days	<input type="checkbox"/> A <input type="checkbox"/> N
*Location-CQ	From: 3/28/14	To: 9/3/14	= 159 Days	<input checked="" type="checkbox"/> A <input type="checkbox"/> N	*Location- From:	To:	= Days	<input type="checkbox"/> A <input type="checkbox"/> N
*Location-	From:	To:	= Days	<input type="checkbox"/> A <input checked="" type="checkbox"/> N	*Location- From:	To:	= Days	<input type="checkbox"/> A <input checked="" type="checkbox"/> N
*Location-	From:	To:	= Days	<input type="checkbox"/> A <input checked="" type="checkbox"/> N	*Location- From:	To:	= Days	<input type="checkbox"/> A <input checked="" type="checkbox"/> N

*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)Sentencing Date: 9/3/2014 - Total Number of Days of Jail Credit Actually Awarded 641 = Sentence Begins Date: 12/01/2012
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. 12-CR13	County CQ	Sentence	Concurrent <input checked="" type="checkbox"/> or Consecutive <input type="checkbox"/>
Case No. 14-CR18	County CQ	Sentence	Concurrent <input checked="" type="checkbox"/> or Consecutive <input type="checkbox"/>
Case No.	County	Sentence	Concurrent <input type="checkbox"/> or Consecutive <input type="checkbox"/>
Case No.	County	Sentence	Concurrent <input type="checkbox"/> or Consecutive <input type="checkbox"/>

Others: _____

7. Miscellaneous Provisions:

- Defendant informed of right to appeal within 14 days of this date. K.S.A. 22-3608(c). (Required by case law)
- Defendant informed of potential rights of expungement K.S.A. 2011 Supp. 21-6614c(h)
- Defendant informed of duty to register as an offender pursuant to the Kansas Offender Registration Act, K.S.A. 2011 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(c).
- 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. 538, 132 P.3d 934 (2006).
- Defendant to undergo domestic violence assessment pursuant to K.S.A. 2011 Supp. 21-6604(p)
- Other Comments: Count II Domestic Battery found not guilty

SECTION VI. RECAP OF SENTENCE CONTINUED

(PAGE 5)

8. **Border Box Findings** K.S.A. 2011 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

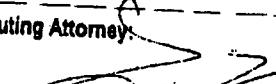
10. If made, Motion for Judgment of Acquittal: Granted Denied

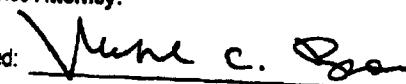
11. If made, Motion for Arrest of Judgment: Granted Denied

12. Additional Comments: *Motion for Mistrial denied.
Motion for Discharge denied.*

SECTION VII. SIGNATURES

1. Judge's Signature: Roger Sessard Date: 9.3.14
 Signed: Roger Sessard
 Printed: Roger Sessard

2. Prosecuting Attorney: 
 Signed: Larry Markle
 Printed: Larry Markle
 Supreme Court Number: 12345
 Date: 9/3/14
 Address: 218 N. Montgomery
Sedan
Kansas 67361
 Phone No: 620-725-5876

3. Defense Attorney: 
 Signed: Michael C. Brown
 Printed: Michael C. Brown
 Supreme Court Number: 07703
 Date: 9/4/14
 Address: P.O. Box 330
507 N. 2nd Ave.
Mulvane, KS 67110
 Phone No: 316-777-1186

Case No. 12-CR-6

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:

- Person Felony Committed With a Firearm - presumed prison. K.S.A. 2012 Supp. 21-6804(h)
- Agg. Battery against a L.E.O., if criminal history is 6H or 6I - presumed prison. K.S.A. 2012 Supp. 21-6804(g)
- Agg. Assault against a L.E.O., if criminal history is 6H or 6I - presumed prison. K.S.A. 2012 Supp. 21-6804(g)
- Battery on a L.E.O., K.S.A. 21-5413(c)(2), resulting in bodily harm - presumed prison and consecutive. K.S.A. 2012 Supp. 21-6804(r)
- Drug Felony While in Possession of a Firearm- presumed prison. K.S.A. 2012 Supp. 21-6805(g)
- Drug Felony With a Firearm that Discharges- presumed prison. K.S.A. 2012 Supp. 21-6805(g)
- Crime Committed for Benefit of a Criminal Street Gang - presumed prison. K.S.A. 2012 Supp. 21-6804(k)
- Extended Jurisdiction Juvenile Imposed - both juvenile and adult sentences imposed, adult sentence stayed conditioned on successful completion of juvenile sentence. K.S.A. 2012 Supp. 38-2347 and 2011 Supp. 38-2364
- Agg. Endangering a Child - consecutive sentence required. K.S.A. 2011 Supp. 21-5601(c)(2)
- Ballistic Resistant Material worn/used in commission/attempt/flight from felony - presumed prison with additional 30 months and consecutive. K.S.A. 2011 Supp. 21-6804(t)
- Unlawful Sexual Relations - presumed prison - K.S.A. 2012 Supp. 21-6804(s)

HABITUAL OR REPEAT OFFENSES APPLY:

- Persistent Sex Offender, if current conviction is presumed prison - double the maximum duration. K.S.A. 2012 Supp. 21-6804(j)
- 2nd or Subs. Manufacture of a Controlled Substance Conviction - presumed prison, twice the maximum duration. K.S.A. 2012 Supp. 21-6805(e)
- 3rd or Subs. Felony Drug Possession occurring on or after July 1, 2008 - presumed prison. K.S.A. 2012 Supp. 21-6805(f)(1)
- 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(l)
- 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).
- 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).
- ** For #27 or #29, Substance Abuse Underlying Factor, Treatment More Effective to Reduce Reoffense 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)
- 3rd or Subs. Criminal Deprivation of a Motor Vehicle - presumptive prison. K.S.A. 2012 Supp. 21-6804(n)
- 2nd Forgery, criminal history I - C, sentenced pursuant to sentencing requirements of K.S.A. 2011 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(i)
- 3rd or Subs. Forgery, criminal history I - C, sentenced pursuant to sentencing requirements of K.S.A. 2011 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(i)
- Crime Committed While Incarcerated and Serving a Felony Sentence, or While on Probation, Parole, Conditional Release, or Postrelease Supervision for a Felony - new sentence shall be imposed pursuant to consecutive sentencing provisions in K.S.A. 2012 Supp. 21-6606 and the court may impose prison even if presumption is nonprison. K.S.A. 2012 Supp. 21-6604(f)(1)
- Crime 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. 2012 Supp. 21-6604(f)(2)
- Crime Committed While on Felony Bond - new sentence "may" be imposed pursuant to consecutive sentencing provisions in K.S.A. 2012 Supp. 21-6606 and the court may impose prison even if presumption is nonprison. K.S.A. 2012 Supp. 21-6604(f)(3). However, under K.S.A. 2012 Supp. 21-6606(d), new sentence "shall" be consecutive.
- 2nd or Subs. Identity Theft or Identity Fraud - presumed prison. K.S.A. 2012 Supp. 21-6804(u)
- Felony Tax Refusal (2nd, 3rd or Subs.) - sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 8-1025, term of imprisonment not in KDOC.

NONGRID OFFENSES APPLY: K.S.A. 2012 Supp. 21-6804(j)

- Felony D.U.I. (3rd, 4th or Subs.) - nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 8-1567, term of imprisonment not in KDOC.
- Felony Domestic Battery - nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 21-5414(b)(3), term of imprisonment not served in KDOC.
- Animal Cruelty- K.S.A. 2011 Supp. 21-6412; 2nd or subsequent conviction; or Working/ Assistance dog - K.S.A. 2012 Supp. 21-6416 - nongrid, sentenced pursuant to specific mandatory sentencing requirements of same statute, term of imprisonment not in KDOC.

FINANCE OFFENSES APPLY:

- Fraudulent Insurance Act, any combination of acts occurring within 6 consecutive months involving \$25,000 or more - presumed prison. K.S.A. 2011 Supp. 40-2,118(e)
- Kansas Uniform Securities Act, violation resulting in loss of \$25,000 or more - presumed prison. K.S.A. 17-12a508(a)(5)
- Mortgage Business Act, Second or Subsequent Conviction - presumed prison. K.S.A. 2011 Supp. 9-2203(d)
- Loan Brokers Act, violation resulting in loss of \$25,000 or more - presumed prison. K.S.A. 50-1013(a)

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

OFFENDER REGISTRATION SUPPLEMENT - K.S.A. 2011 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. 2011 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
Enter age of victim (K.S.A. 2011 Supp. 22-4904(a)(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. 2011 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. 2011 Supp. 21-5511
 Promoting Prostitution - K.S.A. 2011 Supp. 21-6420
 Lewd and Lascivious Behavior - K.S.A. 2011 Supp. 21-5513
 Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)
 Patronizing a Prostitute - K.S.A. 2011 Supp. 21-6421
 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:

Rape - K.S.A. 2011 Supp. 21-5503
 Agg. Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(b)
 Agg. Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(b)
 Agg. Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508(b)
 Agg. Sexual Battery - K.S.A. 2011 Supp. 21-5505(b)
 Electronic Solicitation - K.S.A. 2011 Supp. 21-5509

Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(a)
 Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)(3),(a)(4)
 Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508
 Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510
 Agg. Incest - K.S.A. 2011 Supp. 21-5604(b)(1)
 Unlawful Sexual Relations - K.S.A. 2011 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)(15)

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

Capital Murder - K.S.A. 2011 Supp. 21-5401
 Murder in the Second Degree - K.S.A. 2011 Supp. 21-5403
 Involuntary Manslaughter - K.S.A. 2011 Supp. 21-5405
 Agg. Kidnapping - K.S.A. 2011 Supp. 21-5408(b)
 Agg. Human Trafficking - K.S.A. 2011 Supp. 21-5426(b)
 Any conviction for any comparable offense

Murder in the First Degree - K.S.A. 2011 Supp. 21-5402
 Voluntary Manslaughter - K.S.A. 2011 Supp. 21-5404
 Kidnapping - K.S.A. 2011 Supp. 21-5408(a)
 Criminal Restraint - K.S.A. 2011 Supp. 21-5411 (except by parent, and only when victim is less than 18 years of age)

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. 2011 Supp. 21-5703
 Possession of precursors with intent to manufacture any controlled substance - K.S.A. 2011 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 (f)(1) - K.S.A. 2011 Supp. 5705(a)(1), **ONLY**

Any conviction for any comparable offense
 Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Case No. 12-CR-6

OFFENDER REGISTRATION SUPPLEMENT CONT. - K.S.A. 2011 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. 2011 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. 2011 Supp. 21-5401 Murder in the First Degree - K.S.A. 2011 Supp. 21-5402
 Murder in the Second Degree - K.S.A. 2011 Supp. 21-5403 Voluntary Manslaughter - K.S.A. 2011 Supp. 21-5404
 Involuntary Manslaughter - K.S.A. 2011 Supp. 21-5405 Sexual Battery - K.S.A. 2011 Supp. 21-5505(a)
 Criminal Restraint - K.S.A. 2011 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-forceful 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(a)(15)
 Any conviction of a person felony with court finding on the record that such felony was committed with a DEADLY WEAPON- K.S.A. 2011 Supp. 22-4902(e)(2)
 An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 2011 Supp. 22-4902(a)(5)
 Manufacture or attempted manufacture of any controlled substance - K.S.A. 2011 Supp. 21-5703
 Possession of precursors with intent to manufacture any controlled substance - K.S.A. 2011 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 (f)(1) - K.S.A. 2011 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. 2011 Supp. 21-5511 Patronizing a Prostitute - K.S.A. 2011 Supp. 21-6421
 Lewd and Lascivious Behavior - K.S.A. 2011 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. 2011 Supp. 21-5508 Electronic Solicitation - K.S.A. 2011 Supp. 21-5509
 Agg. Incest - K.S.A. 2011 Supp. 21-5604(b)(1) Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(a)
 Unlawful Sexual Relations - K.S.A. 2011 Supp. 21-5512 Agg. Sexual Battery - K.S.A. 2011 Supp. 21-5505(b)
 Sexual Exploitation of a Child - K.S.A. 2011 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. 2011 Supp. 21-6420, if the prostitute is at least 14 years of age but less than 18 years of age
 Criminal Sodomy - K.S.A. 2011 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. 2011 Supp. 21-5503
 Agg. Kidnapping - K.S.A. 2011 Supp. 21-5408(b)
 Kidnapping - K.S.A. 2011 Supp. 21-5408(a)
 Agg. Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(b)
 Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)(3) or (a)(4)
 Agg. Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(b)
 Agg. Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508(b)
 Agg. Human Trafficking - K.S.A. 2011 Supp. 21-5425(b)
 Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510, if the victim is less than 14 years of age
 Promoting Prostitution - K.S.A. 2011 Supp. 21-6420, if the prostitute is less than 14 years of age
 Any attempt, conspiracy or criminal solicitation of an offense defined in this section

For Court Use Only (Seal)

FILED

2014-SEP-3 PM 1:10

MARY E. KABEL
CLERK OF DISTRICT COURT
CHAUTAUQUA CO., KS
RECEIVED
Clerk

2012 KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT
Please use Journal Entry based on OFFENSE DATE

SECTION I. CASE IDENTIFYING INFORMATION

2. STATE v. Wesley G. Copeland SR		<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	3. Court O.R.I. Number KSO100000	4. K.B.I. Number KS33030927
5. County CQ	6. Court Case Number 12-CR13	7. Sentencing Judge HONORABLE JUDGE ROGER GOSSARD	8. Sentencing Date September 3, 2014	
9. Defense Counsel: Counsel Name (please print)	<input type="checkbox"/> Appointed <input checked="" type="checkbox"/> Retained	<input type="checkbox"/> Self <input type="checkbox"/> Waived Orally <input type="checkbox"/> Waived in Writing Michael Brown		
10. Type of Proceeding (Trial)	<input type="checkbox"/> Bench Trial (includes a plea on stipulated facts) <input checked="" type="checkbox"/> Jury Trial <input type="checkbox"/> Guilty Plea <input type="checkbox"/> Nolo contendere Plea			
11. Date of Conviction: July 14, 2014				
12. Pre-Trial Status of Offender	<input checked="" type="checkbox"/> In Custody <input 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 checked="" type="checkbox"/> H <input 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: UNLAWFUL MANUFACTURE OF CONTROLLED SUBSTANCE	Count No.: 1	Date of Offense: February 6, 2012	<input type="checkbox"/> Designated by court as domestic violence case based upon special finding (see #13 this section)
2. K.S.A. Title, Section, Subsection(s): 21-5703	<input type="checkbox"/> Attempt (K.S.A. 2011 Supp. 21-5301) <input type="checkbox"/> Conspiracy (K.S.A. 2011 Supp. 21-5302) <input type="checkbox"/> Solicitation (K.S.A. 2011 Supp. 21-5303)		
3. Grade of Offense: (Check one in each row.)	<input checked="" type="checkbox"/> Felony, Severity Level 1D <input type="checkbox"/> Person	<input type="checkbox"/> Misdemeanor, Class _____	<input checked="" type="checkbox"/> Nonperson _____
4. Offense Category:	<input type="checkbox"/> Nondrug <input checked="" type="checkbox"/> Drug <input type="checkbox"/> Off-grid <input type="checkbox"/> Nongrid		
5. Presumptive Sentencing Range: (Enter terms from appropriate grid.)	Aggravated 161	Standard 150	Mitigated 142
Check applicable box(es)	<input checked="" type="checkbox"/> Presumptive Prison <input type="checkbox"/> Presumptive Probation <input type="checkbox"/> Border Box <input type="checkbox"/> Drug Treatment for up to 18 months. K.S.A. 2011 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. 2011 Supp. 22-3439 AND A DOCUMENT CONTAINING INFORMATION REQUIRED BY K.S.A. 2011 Supp. 22-3426.
PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION.

Case No. 12-CR13

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

(PAGE 2)

6. SPECIAL RULE APPLICABLE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, enter the number(s) and brief description(s) corresponding to the applicable special rule. (Complete Special Rules Supplemental Page and Attach): #32-Drug Felony While in Possession of a Firearm	
7. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to the KS Offender Registration Act	
7a. Did the court make a special finding that the crime was sexually motivated?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7b. If YES to 7a, 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. 2011 Supp. 22-4902(c)(15))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7c. If YES to 7a and NO to 7b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	
8. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	
9. Is offender being sentenced pursuant to K.S.A. 2011 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.	
10. Downward departure (K.S.A. 2011 Supp. 21-6818(a)) for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	
11. 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.	
12. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 2011 Supp. 21-5709(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)	
13. Determination of domestic violence case designation	
13a. Did offender, as determined by the <u>trier of fact</u> , commit a domestic violence offense?	
13b. If YES to 13a 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?	
13c. If YES to 13a and NO to 13b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.	

SENTENCE IMPOSED:

1. Guideline Range Imposed: <input type="checkbox"/> Aggravated <input checked="" type="checkbox"/> Standard <input type="checkbox"/> Mitigated <input type="checkbox"/> Departure - COMPLETE SECTION IV	
2. Prison Term: KDOC <u>150</u> months (Including enhancement sentence) (Enter months above then check one of the following) <input checked="" type="checkbox"/> Prison sentence imposed or <input type="checkbox"/> Underlying with probation granted ** or Underlying with KDOC Drug Trtmt Prog. (min. 120 days)	
<input type="checkbox"/> Enhancement Sentence- Drug with Firearm: <input type="checkbox"/> 6 months <input type="checkbox"/> 18 months (K.S.A. 2011 Supp. 21-6805(g)) Ballistic Resistant Material: <input type="checkbox"/> 30 months (K.S.A. 2011 Supp. 21-6804(t))	
<input type="checkbox"/> Off-grid Crime: <input type="checkbox"/> Life - Minimum 15 yrs. <input type="checkbox"/> Life - Minimum 20 yrs. <input type="checkbox"/> Hard 25 <input type="checkbox"/> Hard 40 <input type="checkbox"/> Hard 50 <input type="checkbox"/> Mandatory minimum years = 50 years (600 months) or _____ months pursuant to guidelines, given offender's criminal history, whichever is greater <input type="checkbox"/> Life Imprisonment without Parole <input type="checkbox"/> Death Penalty	
3. Postrelease Supervision Term: <input type="checkbox"/> 12 months <input type="checkbox"/> 24 months <input checked="" type="checkbox"/> 36 months <input type="checkbox"/> 60 months (sex offense) - COMPLETE SECTION IV <input type="checkbox"/> No Postrelease K.S.A. 2011 Supp. 22-3716(e) <input type="checkbox"/> Lifetime Postrelease	
4. Electronic Monitoring: <input type="checkbox"/> Lifetime (K.S.A. 2012 Supp. 21-6604(r))	
5. Nongrid Term: (Jail) (For misdemeanor or nongrid felony) _____ <input type="checkbox"/> months <input type="checkbox"/> days (Enter county jail term above then check one of the following) <input type="checkbox"/> Jail sentence imposed or <input type="checkbox"/> Underlying with probation granted. <input type="checkbox"/> 3 rd D.U.I. <input type="checkbox"/> 4 th & Subs. D.U.I. <input type="checkbox"/> 2 nd Test Refusal <input type="checkbox"/> 3 rd & Subs. Test Refusal DUI or Test Refusal Supervision (12 months) <input type="checkbox"/> Court Services <input type="checkbox"/> Community Corrections <input type="checkbox"/> 3 rd & Subs. Domestic Battery w/in 5 yrs. <input type="checkbox"/> Animal Cruelty <input type="checkbox"/> Probation granted after serving term of _____ <input type="checkbox"/> months <input type="checkbox"/> days <input type="checkbox"/> Assignment to a work release program (K.S.A. 2011 Supp. 21-6604 (a)(11))	

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

Rev. 11/2012

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT

1. Probation Term (If Granted): 12 months 18 months 24 months 36 months 60 months Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824 Other: _____ Extended Period K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ monthsProbation Supervision to: Court Services Community Corrections Unsupervised

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

** Assignment to Correctional Conservation Camp

Comments: _____

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. 2011 Supp. 22-3717(d)(1)(D)(i)

["Sexually motivated" defined in K.S.A. 2011 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)

2. Costs Ordered:

Total Restitution (Please complete #3 below)	\$	Correctional Supv. Fee (Felony \$120; Misd. \$60)	\$ 420.00
Court Costs (including surcharge)	\$ 193.00	BIDS Attorney Fee <input checked="" type="checkbox"/> Waived	\$ 731.75
Total Fines (*See Below)	\$	BIDS Application Fee	\$ 100.00
DNA Database Fee (K.S.A. 21-2511 & 75-724.)	\$	Court-Appointed Attorney Fee	\$
Extradition Costs	\$	Community Corr. Fee (offenses after 1/4/07)	\$
Domestic Violence Special Program Fee	\$	Booking/Fingerprint Fee	\$ 45.00
Apprehension Fee (Escape/Agg. Escape)	\$	Reward Reimbursement	\$
Alcohol and/or Drug Eval. Fee (offenses before 7/1/11)	\$	Children's Advocacy Center Assessment Fee	\$
Witness Fee	\$ 30.00	Medical Costs/Expenses Reimbursement	\$
KBI Lab Fee	\$ 400.00	SB 123 Assessment Fee (\$200)	\$
Other Lab Fee	\$	SB 123 Offender Reimbursement (\$100)	\$
Domestic Violence Assessment/Recommendations	\$	Other: _____	\$
		TOTAL COSTS	\$

* Includes fine for DUI offense committed on or after 7/1/11. Clerk will send \$250 to the state treasurer.

3. Restitution to be paid as follows:

Amount Name and Address

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

Case No. 12-CR13

SECTION VI. RECAP OF SENTENCE CONTINUED

(PAGE 5)

1. Border Box Findings K.S.A. 2011 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: *Motion for Mistrial denied
Motion for Discharge denied*

SECTION VII. SIGNATURES

1. Judge's Signature: *Roger Sosnow* Date: 9-3-14

Signed: *Roger Sosnow*

Printed: _____

2. Prosecuting Attorney: *Larry Markle*

Signed: *Larry Markle*

Printed: Larry Markle

Supreme Court Number: 12345

Date: 9/3/14

Address: 218 N. Montgomery

Sedan

Kansas 67361

Phone No: 620-725-5876

3. Defense Attorney: *Mark C. Brown*

Signed: *Mark C. Brown*

Printed: Mark C. Brown

Supreme Court Number: 07703

Date: 9/4/14

Address: P.O. Box 330

507 N. 2nd Ave.

Mulvane, KS 67110

Phone No: 316-777-1186

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES

COUNT II

(Page 1 of 2)

1. Name of Additional Offense of Conviction: UNLAWFUL POSSESSION OF CERTAIN DRUG PRECURSORS/PARAPHERNALIA (Ephedrine)

Count No.: II Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)

2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If Consecutive, _____ months for this count

3. K.S.A. Title, Section, Subsection(s): 21-5709(a)

Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)

4. Grade of Offense: (Check one in each row.) Felony, Severity Level 4D Misdemeanor, Class: _____
 Person Nonperson

5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):
(Enter the terms from the appropriate grid.) Aggravated 12 Standard 11 Mitigated 10
(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS 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. 2011 Supp. 22-4902(c)(15)) Yes No

c. If YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

9. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2011 Supp. 21-6626) Yes No
IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.

10. Is offender being sentenced pursuant to K.S.A. 2011 Supp. 21-6627 where offender is 18 years of age or older and the victim is less than 14 years of age? Yes No
IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY. Yes No

11. Downward departure (K.S.A. 2011 Supp. 21-6818(a)) for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? Yes No
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. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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? Yes No
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? Yes No
14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX. DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 11 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
*or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 2011 Supp. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(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
DUI 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. 2011 Supp. 21-6604 (a)(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. 2011 Supp. 21-6824
 Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

Case No. 12-CR13

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(c)(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. 21-6805(g)
33. Drug Felony With a Firearm that Discharges- presumed prison. K.S.A. 2012 Supp. 21-6805(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 imposed, adult sentence stayed conditioned on successful completion of juvenile sentence. K.S.A. 2012 Supp. 38-2347 and 2011 Supp. 38-2364
35. Agg. Endangering a Child – consecutive sentence required. K.S.A. 2011 Supp. 21-5601(c)(2)
36. Ballistic Resistant Material worn/used in commission/attempt/flight from felony – presumed prison with additional 30 months and consecutive. K.S.A. 2011 Supp. 21-6804(l)
38. Unlawful Sexual Relations - presumed prison - K.S.A. 2012 Supp. 21-6804(s)

HABITUAL OR REPEAT OFFENSES APPLY:

5. Persistent Sex Offender, if current conviction is presumed prison – double the maximum duration. K.S.A. 2012 Supp. 21-6804(j)
12. 2nd or Subs. Manufacture of a Controlled Substance Conviction – presumed prison, twice the maximum duration. K.S.A. 2012 Supp. 21-6805(e)
26. 3rd or Subs. Felony Drug Possession occurring on or after July 1, 2008 - presumed prison. K.S.A. 2012 Supp. 21-6805(f)(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(l)
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 Reoffense 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. 2011 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(i)
17. 3rd or Subs. Forgery, criminal history I – C, sentenced pursuant to sentencing requirements of K.S.A. 2011 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(i)
9. Crime Committed While Incarcerated and Serving a Felony Sentence, or While on Probation, Parole, Conditional Release, or Postrelease Supervision for a Felony – new sentence shall be imposed pursuant to consecutive sentencing provisions in K.S.A. 2012 Supp. 21-6606 and the court may impose prison even if presumption is nonprison. K.S.A. 2012 Supp. 21-6604(f)(1)
28. Crime 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. 2012 Supp. 21-6604(f)(2)
10. Crime Committed While on Felony Bond – new sentence "may" be imposed pursuant to consecutive sentencing provisions in K.S.A. 2012 Supp. 21-6606 and the court may impose prison even if presumption is nonprison. K.S.A. 2012 Supp. 21-6604(f)(3). However, under K.S.A. 2012 Supp. 21-6606(d), new sentence "shall" be consecutive.
37. 2nd or Subs. Identity Theft or Identity Fraud – presumed prison. K.S.A. 2012 Supp. 21-6804(u)
39. Felony Test Refusal (2nd, 3rd or Subs.) – sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 8-1025, term of imprisonment not in KDOC.

NONGRID OFFENSES APPLY: K.S.A. 2012 Supp. 21-6804(i)

6. Felony D.U.I. (3rd, 4th or Subs.) – nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 8-1567, term of imprisonment not in KDOC.
8. Felony Domestic Battery - nongrid, sentenced pursuant to specific mandatory sentencing requirements of K.S.A. 2012 Supp. 21-5414(b)(3), term of imprisonment not served in KDOC.
21. Animal Cruelty- K.S.A. 2011 Supp. 21-6412; 2nd or subsequent conviction; or Working/ Assistance dog – K.S.A. 2012 Supp. 21-6416 – nongrid, sentenced pursuant to specific mandatory sentencing requirements of same statute, term of imprisonment not in KDOC.

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. 2011 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, Second or Subsequent Conviction – presumed prison. K.S.A. 2011 Supp. 9-2203(d)
20. Loan Brokers Act, violation resulting in loss of \$25,000 or more – presumed prison. K.S.A. 50-1013(a)

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

Rev. 11/2012

OFFENDER REGISTRATION SUPPLEMENT – K.S.A. 2011 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. 2011 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

Enter age of victim (K.S.A. 2011 Supp. 22-4904(a)(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. 2011 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:

<input type="checkbox"/> Adultery – K.S.A. 2011 Supp. 21-5511	<input type="checkbox"/> Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)
<input type="checkbox"/> Promoting Prostitution – K.S.A. 2011 Supp. 21-6420	<input type="checkbox"/> Patronizing a Prostitute – K.S.A. 2011 Supp. 21-6421
<input type="checkbox"/> Lewd and Lascivious Behavior – K.S.A. 2011 Supp. 21-5513	<input type="checkbox"/> Conviction for any comparable offense
<input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section	

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:

<input type="checkbox"/> Rape – K.S.A. 2011 Supp. 21-5503	<input type="checkbox"/> Indecent Liberties With a Child – K.S.A. 2011 Supp. 21-5506(a)
<input type="checkbox"/> Agg. Indecent Liberties With a Child – K.S.A. 2011 Supp. 21-5506(b)	<input type="checkbox"/> Criminal Sodomy – K.S.A. 2011 Supp. 21-5504(a)(3),(a)(4)
<input type="checkbox"/> Agg. Criminal Sodomy – K.S.A. 2011 Supp. 21-5504(b)	<input type="checkbox"/> Indecent Solicitation of a Child – K.S.A. 2011 Supp. 21-5508
<input type="checkbox"/> Agg. Indecent Solicitation of a Child – K.S.A. 2011 Supp. 21-5508(b)	<input type="checkbox"/> Sexual Exploitation of a Child – K.S.A. 2011 Supp. 21-5510
<input type="checkbox"/> Agg. Sexual Battery – K.S.A. 2011 Supp. 21-5505(b)	<input type="checkbox"/> Agg. Incest – K.S.A. 2011 Supp. 21-5604(b)(1)
<input type="checkbox"/> Electronic Solicitation – K.S.A. 2011 Supp. 21-5509	<input type="checkbox"/> Unlawful Sexual Relations – K.S.A. 2011 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)(15)

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

<input type="checkbox"/> Capital Murder – K.S.A. 2011 Supp. 21-5401	<input type="checkbox"/> Murder in the First Degree – K.S.A. 2011 Supp. 21-5402
<input type="checkbox"/> Murder in the Second Degree - K.S.A. 2011 Supp. 21-5403	<input type="checkbox"/> Voluntary Manslaughter - K.S.A. 2011 Supp. 21-5404
<input type="checkbox"/> Involuntary Manslaughter - K.S.A. 2011 Supp. 21-5405	<input type="checkbox"/> Kidnapping - K.S.A. 2011 Supp. 21-5408(a)
<input type="checkbox"/> Agg. Kidnapping - K.S.A. 2011 Supp. 21-5408(b)	<input type="checkbox"/> Criminal Restraint - K.S.A. 2011 Supp. 21-5411 (except by parent, and only when victim is less than 18 years of age)
<input type="checkbox"/> Agg. Human Trafficking – K.S.A. 2011 Supp. 21-5426(b)	
<input type="checkbox"/> Any conviction for any comparable offense	
<input type="checkbox"/> Any out of state conviction for an offense that under the laws of Kansas would be an offense listed in this section	
<input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section	
<input type="checkbox"/> Any person felony with court finding on the record that such felony was committed with a DEADLY WEAPON (On or after July 1, 2006)	
<input type="checkbox"/> Any conviction for any comparable person felony, committed with a DEADLY WEAPON	
<input type="checkbox"/> 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. 2011 Supp. 21-5703
- Possession of precursors with intent to manufacture any controlled substance – K.S.A. 2011 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 (f)(1) – K.S.A. 2011 Supp. 5705(a)(1), **ONLY**
- Any conviction for any comparable offense
- Any attempt, conspiracy or criminal solicitation of an offense defined in this section

OFFENDER REGISTRATION SUPPLEMENT CONT. - K.S.A. 2011 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. 2011 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:

<input type="checkbox"/> Capital Murder - K.S.A. 2011 Supp. 21-5401	<input type="checkbox"/> Murder in the First Degree - K.S.A. 2011 Supp. 21-5402
<input type="checkbox"/> Murder in the Second Degree - K.S.A. 2011 Supp. 21-5403	<input type="checkbox"/> Voluntary Manslaughter - K.S.A. 2011 Supp. 21-5404
<input type="checkbox"/> Involuntary Manslaughter - K.S.A. 2011 Supp. 21-5405	<input type="checkbox"/> Sexual Battery- K.S.A. 2011 Supp. 21-5505(a)
<input type="checkbox"/> Criminal Restraint - K.S.A. 2011 Supp. 21-5411 (except by parent, and only when victim is <u>less than 18 years of age</u>)	
<input type="checkbox"/> Any act determined beyond a reasonable doubt to have been <u>sexually motivated</u> AND the act did <u>not</u> involve non-forcible sexual conduct between <u>a victim at least 14 and offender no more than 4 years older than victim</u> - K.S.A. 2011 Supp. 22-4902(a)(15)	
<input type="checkbox"/> Any conviction of a person <u>felony with court finding</u> on the record that such felony was committed with a DEADLY WEAPON- K.S.A. 2011 Supp. 22-4902(e)(2)	
<input type="checkbox"/> An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 2011 Supp. 22-4902(a)(5)	
<input checked="" type="checkbox"/> Manufacture or attempted manufacture of any <u>controlled substance</u> - K.S.A. 2011 Supp. 21-5703	
<input checked="" type="checkbox"/> Possession of precursors with intent to manufacture any <u>controlled substance</u> - K.S.A. 2011 Supp. 21-5709(a)	
<input type="checkbox"/> Cultivation, Distribution, Possession with intent to distribute <u>opiates, opium or narcotic drugs or any stimulant</u> in K.S.A. 65-4107(d)(1), (d)(3), or (f)(1) - K.S.A. 2011 Supp. 21-5705(a)(1) <u>ONLY</u>	
<input type="checkbox"/> Any of the following crimes when one of the parties is <u>less than 18 years of age</u> :	
<input type="checkbox"/> Adultery - K.S.A. 2011 Supp. 21-5511	<input type="checkbox"/> Patronizing a Prostitute - K.S.A. 2011 Supp. 21-6421
<input type="checkbox"/> Lewd and Lascivious Behavior - K.S.A. 2011 Supp. 21-5513	
<input type="checkbox"/> 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:

<input type="checkbox"/> Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508	<input type="checkbox"/> Electronic Solicitation - K.S.A. 2011 Supp. 21-5509
<input type="checkbox"/> Agg. Incest - K.S.A. 2011 Supp. 21-5604(b)(1)	<input type="checkbox"/> Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(a)
<input type="checkbox"/> Unlawful Sexual Relations - K.S.A. 2011 Supp. 21-5512	<input type="checkbox"/> Agg. Sexual Battery - K.S.A. 2011 Supp. 21-5505(b)
<input type="checkbox"/> Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510, <u>if the victim is at least 14 years of age but less than 18 years of age</u>	
<input type="checkbox"/> Promoting Prostitution - K.S.A. 2011 Supp. 21-6420, <u>if the prostitute is at least 14 years of age but less than 18 years of age</u>	
<input type="checkbox"/> Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a) <u>when one of the parties involved is less than 18 years of age</u>	
<input type="checkbox"/> 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:

<input type="checkbox"/> 2 nd or Subsequent conviction of an offense requiring registration	
<input type="checkbox"/> Conviction of any of the following crimes:	
<input type="checkbox"/> Rape - K.S.A. 2011 Supp. 21-5503	
<input type="checkbox"/> Agg. Kidnapping - K.S.A. 2011 Supp. 21-5408(b)	
<input type="checkbox"/> Kidnapping - K.S.A. 2011 Supp. 21-5408(a)	
<input type="checkbox"/> Agg. Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(b)	
<input type="checkbox"/> Criminal Sodomy - K.S.A. 2011 Supp. 21-5504(a)(3) or (a)(4)	
<input type="checkbox"/> Agg. Indecent Liberties With a Child - K.S.A. 2011 Supp. 21-5506(b)	
<input type="checkbox"/> Agg. Indecent Solicitation of a Child - K.S.A. 2011 Supp. 21-5508(b)	
<input type="checkbox"/> Agg. Human Trafficking- K.S.A. 2011 Supp. 21-5426(b)	
<input type="checkbox"/> Sexual Exploitation of a Child - K.S.A. 2011 Supp. 21-5510, <u>if the victim is less than 14 years of age</u>	
<input type="checkbox"/> Promoting Prostitution - K.S.A. 2011 Supp. 21-6420, <u>if the prostitute is less than 14 years of age</u>	
<input type="checkbox"/> Any attempt, conspiracy or criminal solicitation of an offense defined in this section	

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT III (Page 1 of 2)

¹ Name of Additional Offense of Conviction: UNLAWFUL POSSESSION OF CERTAIN DRUG PRECURSORS/PARAPHERNALIA (Lithium)

Count No.: III Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)

² Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If consecutive, _____ months for this count

³ K.S.A. Title, Section, Subsection(s): 21-5709(a)

Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)

⁴ Grade of Offense: (Check one in each row.) Felony, Severity Level 4D Misdemeanor, Class: _____
 Person Nonperson

⁵ Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

⁶ Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):
(Enter the terms from the appropriate grid.) Aggravated 12 Standard 11 Mitigated 10
(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

⁷ 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): _____

⁸ SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act a. Did the court make a special finding that the crime was sexually motivated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No b. IF YES to 8a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15)) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
¹⁰ Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
¹¹ Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
¹³ Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
¹⁴ Determination of domestic violence case designation 14a. Did offender, as determined by the trier of fact, commit a domestic violence offense? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX. <input type="checkbox"/> DV Case	

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 1 months (including enhancement sentence)

(Enter months above then check one of the following) Prison 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. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV

No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of months days

Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824

Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT IV (Page 1 of 2)

1. Name of Additional Offense of Conviction: UNLAWFUL POSSESSION OF CERTAIN FELONY PARAPHERNALIA

Count No.: IV Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): 1-3
If consecutive, 5 months for this count

3. K.S.A. Title, Section, Subsection(s): 21-5709(b)

 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4. Grade of Offense: (Check one in each row.) Felony, Severity Level 4D Misdemeanor, Class: _____
 Person Nonperson5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions):

(Enter the terms from the appropriate grid.) Aggravated 12 Standard 11 Mitigated 10(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8a. Did the court make a special finding that the crime was sexually motivated?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8b. IF YES to 8a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8c. 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation 14a. Did offender, as determined by the <u>trier of fact</u> , 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 11 months (including enhancement sentence)
(Enter months above then check one of the following) Prison 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. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days
 Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824
 Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT V (Page 1 of 2)

1 Name of Additional Offense of Conviction: POSSESSION OF CONTROLLED SUBSTANCE; METHAMPHETAMINE

Count No.: V Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)2 Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If consecutive, _____ months for this count

3 K.S.A. Title, Section, Subsection(s): 21-5706(b)(2)

 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4 Grade of Offense: (Check one in each row.) Felony, Severity Level 4D Misdemeanor, Class: _____
 Person Nonperson5 Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid6 Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions):
(Enter the terms from the appropriate grid.) Aggravated 12 Standard 11 Mitigated 10
(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7 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): _____

8 SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act 8a. Did the court make a special finding that the crime was sexually motivated? 8b. 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. 2011 Supp. 22-4902(c)(15)) 8c. IF YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9 Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10 Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11 Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13 Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14 Determination of domestic violence case designation 14a. Did offender, as determined by the <u>trier of fact</u> , 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 11 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
"or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)
 Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days
 Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824
 Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT VI (Page 1 of 2)

1. Name of Additional Offense of Conviction: POSSESSION OF CONTROLLED SUBSTANCE; HYDROCODONE

Count No.: VI Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)

2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____

If consecutive, _____ months for this count

3. K.S.A. Title, Section, Subsection(s): 21-5706(a)

Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)

4. Grade of Offense: (Check one in each row.) Felony, Severity Level 4D Misdemeanor, Class: _____
 Person Nonperson

5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):

(Enter the terms from the appropriate grid.) Aggravated 12 Standard 11 Mitigated 10

(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box

Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824

Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8a. Did the court make a special finding that the crime was sexually motivated?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8b. IF YES to 8a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8c. 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14a. Did offender, as determined by the trier of fact, commit a domestic violence offense?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.	<input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 11 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
*or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days
 Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824
 Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT VII (Page 1 of 2)

1. Name of Additional Offense of Conviction: CRIMINAL USE OF WEAPONS; DISTRIBUTION; POSSESSION

Count No.: VII

Date of Offense: February 6, 2012

 Domestic Violence Offense (see #14 this section)2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): I-6,8-12
If consecutive, 6 months for this count

3. K.S.A. Title, Section, Subsection(s): 21-6301(a)(5)

 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4. Grade of Offense: (Check one in each row.) Felony, Severity Level 9 Misdemeanor, Class: _____
 Person Nonperson5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions):
(Enter the terms from the appropriate grid.) Aggravated 7 Standard 6 Mitigated 5
(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act a. Did the court make a special finding that the crime was sexually motivated? b. IF YES to 8a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15)) c. IF YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER? (K.S.A. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 6 months (including enhancement sentence)
(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
*or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days
 Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824
 Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT VIII (Page 1 of 2)

1. Name of Additional Offense or Conviction: CRIMINAL USE OF WEAPONS; DISTRIBUTION; POSSESSION

Count No.: VIII

Date of Offense: February 6, 2012

 Domestic Violence Offense (see #14 this section)2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): 1-7; 9-12
If consecutive, 6 months for this count3. K.S.A. Title, Section, Subsection(s): 21-6301(a)(5) Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4. Grade of Offense: (Check one in each row.) Felony, Severity Level 9 Misdemeanor, Class: _____
 Person Nonperson5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):
(Enter the terms from the appropriate grid.) Aggravated 7 Standard 6 Mitigated 5
(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8a. Did the court make a special finding that the crime was sexually motivated?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8b. IF YES to 8a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8c. 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14a. Did offender, as determined by the <u>tier of fact</u> , commit a domestic violence offense?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.	<input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 6 months (including enhancement sentence)

(Enter months above then check one of the following) Prison 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. 2011 Supp. 21-6805(g)

Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV

No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days

Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824

Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT IX (Page 1 of 2)

1. Name of Additional Offense of Conviction: CRIMINAL USE OF WEAPONS, DISTRIBUTION; POSSESSION

Count No.: IX Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If consecutive, _____ months for this count

3. K.S.A. Title, Section, Subsection(s): 21-6301(a)(10)

 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4. Grade of Offense: (Check one in each row.) Felony, Severity Level _____ Misdemeanor, Class: B
 Person Nonperson5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):
(Enter the terms from the appropriate grid.) Aggravated Standard 6 mo Mitigated _____
(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box
 Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824
 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8a. Did the court make a special finding that the crime was sexually motivated?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8b. 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. 2011 Supp. 22-4902(c)(15))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8c. 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(a), Possession of precursors w/ intent to manufacture? (personal use exemption eliminated effective July 1, 2011) IF YES, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 6 months (including enhancement sentence)

(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
*or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV
 No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days

Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824

Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT X (Page 1 of 2)

1. Name of Additional Offense or Conviction: CRIMINAL USE OF WEAPONS; DISTRIBUTION; POSSESSION

Count No.: X Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If consecutive, _____ months for this count

3. K.S.A. Title, Section, Subsection(s): 21-6301(a)(10)

 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4. Grade of Offense: (Check one in each row.) Felony, Severity Level _____ Misdemeanor, Class: B
 Person Nonperson5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):

(Enter the terms from the appropriate grid.) Aggravated Standard 6 mo Mitigated _____

(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8a. Did the court make a special finding that the crime was sexually motivated?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8b. 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. 2011 Supp. 22-4902(c)(15))	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8c. 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14a. Did offender, as determined by the trier of fact, commit a domestic violence offense?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.	<input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 6 months (including enhancement sentence)

(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
"or Underlying with KDCC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV

No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days

Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824

Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

"This option is included in statute, but is unavailable.

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT XI (Page 1 of 2)

1. Name of Additional Offense of Conviction: POSSESSION OF CONTROLLED SUBSTANCE; MARIJUANA

Count No.: XI Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If consecutive, _____ months for this count

3. K.S.A. Title, Section, Subsection(s): 21-5706(b)(4)

 Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)4. Grade of Offense: (Check one in each row.) Felony, Severity Level _____ Misdemeanor, Class: A
 Person Nonperson5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):

(Enter the terms from the appropriate grid.) Aggravated _____ Standard 12mo _____ Mitigated _____

(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824 Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
a. Did the court make a special finding that the crime was sexually motivated?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b. IF YES to 8a, did the court find that the act involved non-forceable sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15))		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
14a. Did offender, as determined by the <u>trier of fact</u> , commit a domestic violence offense?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> DV Case
14c. If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.		

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 12 months (including enhancement sentence)

(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted

or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)

Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV

No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days

Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824

Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

Case No. 12-CR13

KSGA JOURNAL ENTRY OF JUDGMENT ADDITIONAL OFFENSES COUNT XII (Page 1 of 2)

1. Name of Additional Offense of Conviction: POSSESSION OF DRUG PARAPHERNALIA

Count No.: XII Date of Offense: February 6, 2012 Domestic Violence Offense (see #14 this section)

2. Sentences Concurrent or Consecutive: Concurrent To Count(s): I-XII Consecutive To Count(s): _____
If consecutive, _____ months for this count

3. K.S.A. Title, Section, Subsection(s): 21-5709(b)(2)

Attempt (K.S.A. 2011 Supp. 21-5301) Conspiracy (K.S.A. 2011 Supp. 21-5302) Solicitation (K.S.A. 2011 Supp. 21-5303)

4. Grade of Offense: (Check one in each row.) Felony, Severity Level _____ Misdemeanor, Class: A
 Person Nonperson

5. Offense Category: Nondrug Grid Drug Grid Off-grid Nongrid

6. Presumptive Sentencing Range (Use Criminal History Classification "I" for non-primary convictions.):

(Enter the terms from the appropriate grid.) Aggravated _____ Standard 12mo _____ Mitigated _____

(Check the appropriate box(es).) Presumptive Prison Presumptive Probation Border Box

Drug Treatment for up to 18 months. K.S.A. 2011 Supp. 21-6824

Special Rule Applies (Complete Special Rule Supplemental Page and Attach)

7. 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): _____

8. SPECIAL FINDING that the crime was SEXUALLY MOTIVATED pursuant to KS Offender Registration Act a. Did the court make a special finding that the crime was sexually motivated? b. If YES to 8a, did the court find that the act involved non-forceful sexual conduct, the victim was at least 14 and the offender was no more than 4 years older than the victim? (K.S.A. 2011 Supp. 22-4902(c)(15)) c. If YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9. Was offender determined by the Court to be an AGGRAVATED HABITUAL SEX OFFENDER ? (K.S.A. 2011 Supp. 21-6626) IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Is offender being sentenced pursuant to K.S.A. 2011 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Downward departure [K.S.A. 2011 Supp. 21-6818(a)] for a crime of extreme sexual violence (K.S.A. 2011 Supp. 21-6815)? IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Was offender convicted of a violation of K.S.A. 2011 Supp. 21-5703, Manufacture or attempted manufacture, K.S.A. 2011 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. 21-5709(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)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Determination of domestic violence case designation 14a. Did offender, as determined by the <u>tier of fact</u> , 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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> DV Case

Case No. 12-CR13

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

SENTENCE IMPOSED:

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

2. Prison Term: KDOC 12 months (including enhancement sentence)

(Enter months above then check one of the following) Prison sentence imposed or Underlying with probation granted
**or Underlying with KDOC Drug Trtmnt Prog. (min. 120 days)

Enhancement Sentence- Drug with Firearm: 6 months 18 months K.S.A. 2011 Supp. 21-6805(g)
Ballistic Resistant Material: 30 months K.S.A. 2011 Supp 21-6804(t)

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 offense) - COMPLETE SECTION IV

No Postrelease K.S.A. 22-3716(e) Lifetime Postrelease

4. Electronic Monitoring: Lifetime (K.S.A. 2012 Supp. 21-6604(r))

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 mandatory term of _____ months days

Assignment to a work release program (K.S.A. 2011 Supp. 21-6604(a)(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. 2011 Supp. 21-6824

Extended Period (K.S.A. 2011 Supp. 21-6608(c)(5)) for: _____ 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:

Comments:

7. Additional Comments:

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

APPENDIX C

IN THE
SUPREME COURT OF THE UNITED STATES

WESLEY G. COPELAND SR. – PETITIONER

vs.

STATE OF KANSAS -- RESPONDENT

APPENDIX TO
PETITION FOR A WRIT OF CERTIORARI

Wesley G. Copeland Sr. #109002

WCF A2

1806 Pinecrest Circle

Winfield, Kansas 67156



Court: Supreme Court

Case Number: 112755

Case Title: STATE OF KANSAS, APPELLEE,
V.
WESLEY G. COPELAND, SR., APPELLANT.

Type: Petition for Review (re: opinion) by Appellant,
Wesley Copeland

Considered by the Court and denied.

SO ORDERED.

A handwritten signature in black ink that reads "LAWTON R. NUSS".

/s/ Lawton R. Nuss, Chief Justice

MANDATE

COURT OF APPEALS,

ss.

STATE OF KANSAS,

Appellate Court No. 14-112755-A

District Court Nos. 12CR6
12CR13

The State of Kansas, to the District Court within and for the County of CHAUTAUQUA
in the State of Kansas, Greeting:

WHEREAS, In a certain criminal action lately pending before you, wherein STATE OF KANSAS, appellee, and, WESLEY G. COPELAND, SR., appellant, a judgment was rendered by you against the appellant from which judgment appellant prosecuted an appeal in the Court of Appeals within and for the State of Kansas;

AND WHEREAS, on July 27, 2018, on consideration of the appeal, it was ordered and adjudged by the Court of Appeals that the judgment of the district court be affirmed.

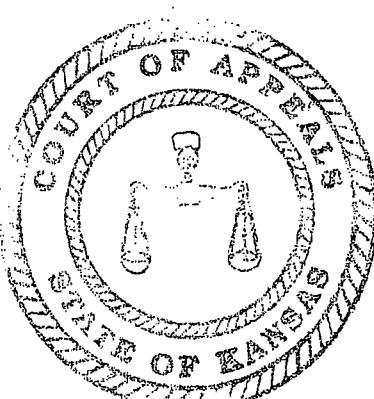
AND WHEREAS, on April 30, 2019, the Supreme Court denied the petitions for review. Judgment of the district court is affirmed upon the denial. An attested true copy of the opinion is attached.

YOU ARE THEREFORE COMMANDED, that without delay you cause execution to be had of the judgment of the Court of Appeals, according to law.

Costs

Paid Fees of Clerk of the Appellate Courts.....	\$ waived
Other Costs	\$
Total.....	\$

WITNESS my hand and the seal of the Court of Appeals affixed
hereto, at my office, in the City of Topeka, on MAY 14, 2019



Douglas T. Shima

DOUGLAS T. SHIMA, Clerk of the Appellate Courts

MANDATE RECEIVED BY CLERK
TRIAL JUDGE NOTIFIED

Date: _____