



**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,** )  
 )  
 **Respondent,** )  
 )  
 **v.** ) **WD85830**  
 )  
 **JAMES EUGENE LOGAN,** ) **Filed: September 19, 2023**  
 )  
 **Appellant.** )

**Appeal from the Circuit Court of Boone County  
The Honorable Stephanie M. Morrell, Judge**

**Before Division Two: Alok Ahuja, P.J., and  
Anthony Rex Gabbert and Thomas N. Chapman, JJ.**

James Logan was convicted of one count of assault in the fourth degree, a class C misdemeanor, following a bench trial in the Circuit Court of Boone County. Logan appeals, contending that the circuit court erred by conducting his arraignment without having appointed counsel available to represent him.

Because the legal file does not contain a written judgment of conviction complying with Supreme Court Rule 29.07(c), we remand to the circuit court for the limited purpose of entering such a judgment. The Court will hold this appeal in abeyance pending the issuance of a written judgment. Once a copy of the judgment is submitted to this Court in a supplemental legal file, the appeal may proceed.

## **Factual Background**

The incident giving rise to this appeal occurred on the evening of July 17, 2022. The Victim was walking home from a bar in Columbia around 9:00 p.m. through an alley when he encountered Logan. The Victim testified at trial that Logan “appeared to be agitated,” and was glaring at him. The Victim attempted to avoid contact with Logan, but Logan began following him, repeatedly asking the Victim where he was going. The Victim testified that he felt like he was in danger and had to defend himself. He testified that Logan

ran up behind me as I was heading towards the alley. As he was running up towards me, he tried to swing and kick at me. I turned and started moving backwards into the alley, where I . . . stopped for a second, and he came running up trying to kick me again. At that point I took a swing at him and gave him a jab in the . . . left side of the head.

Logan then “became very, very agitated,” threw his hat at the Victim, and then unsuccessfully tried to grab the steel gutter off the side of a building. The Victim testified that Logan then pulled a two- to three-foot metal ring off of a trash can, and held it over his head as if preparing to strike the Victim.

Logan continued to follow the Victim as he walked towards his home. As they crossed into a poorly lit area, Logan jumped in front of the Victim. The Victim “threw two or three right hooks as [Logan] was coming at me to grab me,” making impact at least once. Logan stumbled out into the street, tripped over the curb, and fell, striking the back of his head on the pavement. The Victim caught the attention of a passing police vehicle, and officers detained Logan after a struggle.

Logan was subsequently charged with the class C misdemeanor of assault in the fourth degree, § 565.056, RSMo. An initial appearance was held on August

17, 2022, during which Logan was arraigned and pleaded not guilty. The court's docket entry reflects that Logan appeared without counsel. The court advised Logan of his right to request counsel, his right to remain silent, the bond conditions the court had imposed, and his right to apply for a modification of bond conditions.

Logan appeared in person without counsel for two subsequent case reviews, where his case was continued. On September 14, appointed counsel entered his appearance on Logan's behalf. On October 24, Logan filed a motion to dismiss, contending that the court had violated his constitutional right to counsel by failing to appoint counsel to represent him at his arraignment.

After a bench trial, the circuit court denied Logan's motion to dismiss, found Logan guilty, and sentenced him to fifteen days in the Boone County jail, to run consecutively to his sentences in another case (which is also on appeal to this Court as No. WD85831).

Logan appeals.

### **Discussion**

Before addressing the merits of Logan's arguments, we address the State's contention that appellate jurisdiction is lacking because the record on appeal does not contain a written final judgment complying with the requirements of Rule 29.07(c).

In Missouri, "the right to appeal is purely statutory." *State v. Waters*, 597 S.W.3d 185, 186 (Mo. 2020) (citations and internal quotation marks omitted). In criminal cases, § 547.070, RSMo authorizes defendants to appeal "[i]n all cases of final judgment rendered upon any indictment or information." Similarly,

Supreme Court Rule 30.01(a) specifies that the appeals authorized by law may be prosecuted “[a]fter the rendition of final judgment in a criminal case.”

In *State v. Vandergrift*, 669 S.W.3d 282 (Mo. 2023), the Missouri Supreme Court recently clarified that, for purposes of triggering a criminal defendant’s right to appeal, “[a] final judgment is *rendered* when the circuit court orally announces the judgment and imposes sentence in the presence of the defendant.” *Id.* at 289 (citing *State v. Vinson*, 87 S.W.2d 637, 639-40 (Mo. 1935); other citations omitted).

Although the circuit court’s oral pronouncement of judgment triggers a defendant’s right to appeal, Rule 29.07(c) specifies that “[a] judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly.” Further, Rule 30.04(b) specifies that, in every criminal appeal, “the legal file shall always include . . . the judgment and sentence . . . .”

In *Vandergrift*, the Supreme Court held that the entry of a written judgment complying with Rule 29.07(c) was not a jurisdictional prerequisite; the Court instead characterized the written judgment as “a mere ministerial act.” 669 S.W.3d at 289. The Court nevertheless held that the entry of a written judgment, and its inclusion in the record on appeal, was required before an appeal could proceed:

the entry of a written judgment of conviction must be included in the record on appeal, and appellate review cannot proceed unless and until that judgment is entered in the record. Its absence, however, does not deprive a court of appellate jurisdiction, but could support

dismissal of an appeal on procedural grounds pursuant to Rule 30.14.

....

... [B]ecause a court can speak only through its records, and entry is the official record of the judgment that was orally rendered, entry is an essential prerequisite for an appellate court to review the record on an appeal from a judgment of conviction. Without entry, an appellate court is left to speculate whether judgment actually was rendered and, if so, its terms and conditions. Accordingly, when rendition of judgment has occurred but entry has not, the appellate court must remand for entry of the judgment before appellate review can proceed.

*Id.* at 289-91 (citations omitted).<sup>1</sup>

In this case, the docket entry memorializing the results of Logan’s trial states:

**Defendant Sentenced**

The State appears by Assistant Prosecuting Attorney. The Defendant appears in person in custody and by [defense] attorney . . . . After argument, motion to dismiss is denied and motion for interlocutory appeal is denied. A non-jury trial is held. The Court finds the Defendant guilty. As to sentencing, it is the judgment of the court and the Court orders: The Defendant is sentenced to 15 days in the Boone County Jail said sentence to run consecutive to

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<sup>1</sup> *Vandergrift* quoted at length from *State v. Vinson*, 87 S.W.2d 637 (Mo. 1935), to justify its holding that an appeal could not proceed without inclusion of a Rule 29.07(c)-compliant judgment in the appellate record. *Vinson* warned that, without a written judgment, there would be “no competent evidence” of the circuit court’s rendition of judgment, and the judgment would “rest alone in the memory of the judge.” *Vinson*, 87 S.W.3d at 639 (citations omitted). That may well have been true in 1935. Today, however, a certified transcript – containing a verbatim report of the court’s oral rendition of judgment – is prepared in virtually every criminal appeal. Given current practices, it is questionable whether a written entry of judgment is *essential* to appellate review in every criminal case – especially if the parties do not dispute the disposition ordered by the circuit court. Be that as it may, we are required to follow this aspect of the *Vandergrift* decision.

22BA-CR03562. Defendant given credit for all time served and 5 days credit for court costs. SMM/XI (JB)

This docket entry is insufficient to constitute the entry of written judgment as required by Supreme Court Rule 29.07(c). The Rule requires that a written judgment in a criminal case “shall set forth the plea, the verdict or findings, and the adjudication and sentence. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly.” A bare recitation that the defendant was found “guilty,” without enumerating the specific charges and therefore the specific verdict or findings, is insufficient to comply with Rule 29.07(c). *State v. Paul*, 401 S.W.3d 591, 592-93 (Mo. App. W.D. 2013); *City of Neosho v. Doyle*, 52 S.W.3d 651, 652 (Mo. App. S.D. 2001); *State v. Nenninger*, 50 S.W.3d 368, 369 (Mo. App. S.D. 2001). The docket entry in this case does not specify the offense for which Logan was convicted, and does not itself purport to be the entry of a judgment complying with Rule 29.07(c).

We note that this Court sent two letters to the parties in February 2023, advising them that no Rule 29.07(c) judgment appeared in the legal file, and inviting Logan to file a supplemental legal file curing the deficiency. Unfortunately no written judgment was thereafter procured from the circuit court or filed here. Under *Vandergrift*, before addressing the merits of Logan’s appeal we are left with little option but to remand the case to the circuit court for it to enter a final judgment complying with Rule 29.07(c).

### **Conclusion**

The case is remanded to the circuit court for the limited purpose of entering a judgment complying with Supreme Court Rule 29.07(c). This appeal will be held in abeyance until such a judgment is entered. Once the judgment is

entered, Logan shall file a supplemental legal file in this Court reflecting that judgment, after which the appeal will proceed before this division, on the existing briefing.

  
Alok Ahuja, Judge

All concur.