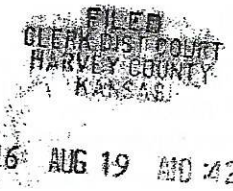
For Court Use Only (Seal)



Harvey Co

KANSAS SENTENCING GUIDELINES JOURNAL ENTRY OF JUDGMENT
PLEASE USE FOR CRIMES COMMITTED ON JULY 1, 2015 - JUNE 30, 2016

SECTION I. CASE IDENTIFYING INFORMATION

1. **Transaction No.** 3040A1515458

2. **STATE v.** MICHAEL JOSEPH COMBS ☒ Male ☐ Female

3. **Court O.R.I. Number** KS040015J

4. **K.B.I. Number** 33556556

5. **County** HARVEY

6. **Court Case Number** 15-CR-740

7. **Sentencing Judge** JOHN KLENDA

8. **Sentencing Date** June 13, 2016

9. **Defense Counsel:** ☐ Appointed ☒ Retained ☐ Self ☐ Waived Orally ☐ Waived in Writing

10. **Type of Proceeding (Trial)** ☐ Bench Trial (includes a plea on stipulated facts) ☐ Jury Trial ☐ Guilty Plea ☒ *Nolo contendere* Plea

11. **Date of Conviction:** March 22, 2016 ☐ Resentencing pursuant to *State v. Murdock*

12. **Pre-Trial Status of Offender** ☐ In Custody ☒ Released on Bond ☐ Other Release

SECTION II. CRIMINAL HISTORY CLASSIFICATION

1. **Offender's Overall Criminal History Classification as Found by the Court:** ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☐ G ☐ H ☒ I

2. **Objection to Criminal History?** ☐ Yes ☒ No **If Yes, By:** ☐ Defendant or ☐ State
Court's Ruling on Objection: ☐ Criminal history was amended ☐ Criminal history was not amended

SECTION III. CURRENT CONVICTION INFORMATION

1. **Name of PRIMARY Offense of Conviction:** RAPE
Count No.: 1 **Date of Offense:** APRIL OR MAY, 2015 ☐ **Designated by court as domestic violence case based upon special finding (see #14 this section)**

2. **If Drug Offense:** (Indicate statute for controlled substance) ☐ 65-4105 ☐ 65-4107 ☐ 65-4109 ☐ 65-4111 ☐ 65-4113
Name of Drug: ____
Amount of Drug (IF Distribution Offense): ____ ☐ w/in 1,000 ft of school

3. **K.S.A. Title, Section, Subsection(s):** 21-5503(a)(3)
☐ **Attempt** (K.S.A. 21-5301) ☐ **Conspiracy** (K.S.A. 21-5302) ☐ **Solicitation** (K.S.A. 21-5303)

4. **Grade of Offense:** (Check one in each row.) ☒ Felony, Severity Level ____ ☐ Misdemeanor, Class ____
☒ Person ☐ Nonperson

5. **Offense Category:** ☐ Nondrug ☐ Drug ☒ Off-grid ☐ Nongrid

6. **Presumptive Sentencing Range:** (Enter terms from appropriate grid.) Aggravated ____ Standard ____ Mitigated ____
Check applicable box(es) ☒ Presumptive Prison ☐ Presumptive Probation ☐ Border Box
☐ Drug Treatment for up to 18 months. K.S.A. 21-6824
☐ 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. 22-3439 AND A DOCUMENT CONTAINING INFORMATION REQUIRED BY K.S.A. 22-3426.
PLEASE USE AN ADDITIONAL OFFENSES PAGE FOR ADDITIONAL OFFENSES OF CONVICTION.

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7. **SPECIAL RULE APPLICABLE:** ☐ Yes ☒ No **If Yes, enter the number(s) and brief description(s)** corresponding to the applicable special rule. **(Complete Special Rules Supplemental Page and Attach):** _____

8. ***SPECIAL FINDING*** that the crime was ***SEXUALLY MOTIVATED*** pursuant to the 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. 22-4902(c)(15)) 8c. **IF YES to 8a and NO to 8b, PLEASE COMPLETE OFFENDER REGISTRATION SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.**	☒ Yes ☐ No ☐ Yes ☒ No
9. Was offender determined by the Court to be an ***AGGRAVATED HABITUAL SEX OFFENDER?*** (K.S.A. 21-6626) **IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.**	☐ Yes ☒ No
10. Is offender being sentenced pursuant to K.S.A. 21-6627 where offender is 18 years of age or older and the victim is less than 14 years of age? **IF YES, PLEASE COMPLETE SEX OFFENSE SUPPLEMENT AND ATTACH IT TO JOURNAL ENTRY.**	☒ Yes ☐ No
11. Downward departure (K.S.A. 21-6818(a)) for a crime of extreme sexual violence (K.S.A. 21-6815)? **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. 21-5703, Manufacture or attempted manufacture; K.S.A. 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.**	☐ Yes ☒ No
14. Determination of domestic violence case designation 14a. Did offender, as determined by the trier of fact, commit a domestic violence offense? 14b. If **YES** to **14a** above, did the court find that offender had no prior domestic violence conviction or diversion, AND that offender did not use the present domestic violence offense to coerce, control or punish the victim? 14c. **If YES to 14a and NO to 14b, PLEASE CHECK THE DOMESTIC VIOLENCE CASE DESIGNATION BOX.**	☐ Yes ☒ No ☐ Yes ☐ No ☐ **DV Case**
15. Veteran's Treatment Eligibility (2015 HB 2154): 15a Did offender serve in the armed forces of the U.S. in a combat zone as certified by the Kansas Commission on Veteran Affairs? 15b Does offender suffer from injury and the injury is connected to service in a combat zone in the armed forces of the U.S. 15c Does offender's current conviction place the offender in a presumptive probation grid box? **If YES to 15a through 15c, check box if court ordered Veterans Treatment**	☐ Yes ☒ No ☐ Yes ☒ No ☐ Yes ☒ No ☐ VA treatment

SECTION IV. SENTENCE IMPOSED

1. **Guideline Range Imposed:** ☐ Aggravated ☐ Standard ☐ Mitigated ☒ Departure – **COMPLETE SECTION V**

2. **Prison Term:** KDOC 93 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. 21-6805(g))
Ballistic Resistant Material: ☐ 30 months (K.S.A. 21-6804(t))
☐ Off-grid Crime:
☐ Life - Minimum 15 yrs. ☐ Life - Minimum 20 yrs. ☐ Hard 25 ☐ Hard 40 ☐ Hard 50 ☐ Life without Parole ☐ Death Penalty
☐ Per K.S.A. 2014 Supp. 21-6620, 21-6623 or 21-6627, if guidelines sentence greater than mandatory minimum ____ months.

3. **Postrelease Supervision Term:** ☐ 12 months ☐ 24 months ☐ 36 months ☐ 60 months (sex offense) - **COMPLETE SECTION V**
☒ Lifetime Postrelease ☐ Lifetime Parole / Electronic Monitoring (K.S.A. 21-6604(r))

4. **Felony DUI & Test Refusal:** ☐ 3rd D.U.I. ☐ 4th & Subs. D.U.I. ☐ 2nd Test Refusal ☐ 3rd & Subs. Test Refusal
Jail Term: _____ ☐ months ☐ days ☐ Additional one month jail if child <14 in vehicle (K.S.A. 8-1567(c), K.S.A. 8-1025(c)) *(include in total)*
Post-Imprisonment Supervision (PIS) of 12 months supervised by: ☐ Court Services ☐ Community Corrections (check one)
☐ Additional one month jail if child <14 in vehicle (K.S.A. 8-1567(c), K.S.A. 8-1025(c)) *(include in total)*

5. **Other Nongrid Felony and/or Misdemeanors:** ☐ 3rd & Subs. Domestic Battery w/in 5 yrs. ☐ Animal Cruelty
Jail Sentence Imposed: _____ months _____ days _____ hours ☐ Probation Imposed (Complete #6)
☐ Probation granted after serving jail term. Jail Term _____ months _____ days
☐ Assigned to work release (K.S.A. 21-6604(a)(11)) or ☐ House Arrest: _____ months _____ days _____ hours

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

Case No. 15-CR-740

OFFENDER REGISTRATION SUPPLEMENT – K.S.A. 22-4901 et seq. (PAGE 1 of 2)
(If applicable, complete both pages and attach to the Journal Entry.)

SECTION A. REGISTRATION REQUIREMENT - Check appropriate boxes to indicate the REASON for registration. See K.S.A. 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. 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. 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. 21-5511
☐ Promoting Prostitution – K.S.A. 21-6420
☐ Lewd and Lascivious Behavior – K.S.A. 21-5513
☐ Criminal Sodomy - K.S.A. 21-5504(a)
☐ Buying Sexual Relations – K.S.A. 21-6421
☐ Conviction for any comparable offense
☐ 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:

☐ Indecent Liberties With a Child – K.S.A. 21-5506(a)
☒ Rape – K.S.A. 21-5503
☐ Agg. Indecent Liberties With a Child – K.S.A. 21-5506(b)
☐ Agg. Criminal Sodomy – K.S.A. 21-5504(b)
☐ Agg. Indecent Solicitation of a Child – K.S.A. 21-5508(b)
☐ Agg. Sexual Battery – K.S.A. 21-5505(b)
☐ Electronic Solicitation – K.S.A. 21-5509
☐ Criminal Sodomy – K.S.A. 21-5504(a)(3),(a)(4)
☐ Indecent Solicitation of a Child – K.S.A. 21-5508
☐ Sexual Exploitation of a Child – K.S.A. 21-5510
☐ Commercial Sexual Exploitation of a Child – K.S.A. 21-6422
☐ Agg. Incest – K.S.A. 21-5604(b)(1)
☐ Unlawful Sexual Relations - K.S.A. 21-5512
☐ Agg. Human Trafficking, if committed in whole or in part for the purpose of sexual gratification of the defendant or another - K.S.A. 21-5426(b)
☐ 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. 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. 21-5401
☐ Murder in the Second Degree - K.S.A. 21-5403
☐ Involuntary Manslaughter - K.S.A. 21-5405(a)(1), (a)(2) or (a)(4)
☐ Agg. Kidnapping - K.S.A. 21-5408(b)
☐ Agg. Human Trafficking, if not committed in whole or in part for the purpose of sexual gratification of the defendant or another – K.S.A. 21-5426(b)
☐ Murder in the First Degree – K.S.A. 21-5402
☐ Voluntary Manslaughter - K.S.A. 21-5404
☐ Kidnapping - K.S.A. 21-5408(a)
☐ Criminal Restraint - K.S.A. 21-5411 (except by parent, and only when victim is less than 18 years of age)
☐ Any conviction for any comparable offense
☐ Any out of state conviction for an offense that under the laws of Kansas would be an offense listed in this section
☐ Any attempt, conspiracy or criminal solicitation of an offense defined in this section
☐ Any person felony with court finding on the record that such felony was committed with a **DEADLY WEAPON** (On or after July 1, 2006)
☐ Any conviction for any comparable person felony, committed with a **DEADLY WEAPON**
☐ Any attempt, conspiracy or criminal solicitation of a person felony committed with a **DEADLY WEAPON**

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

☐ **Manufacture** or attempted manufacture of any controlled substance – K.S.A. 21-5703
☐ **Possession of precursors** with intent to manufacture any controlled substance – K.S.A. 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. 21-5705(a)(1), **ONLY**
☐ Any conviction for any comparable offense
☐ Any attempt, conspiracy or criminal solicitation of an offense defined in this section

Case No. 15-CR-740

OFFENDER REGISTRATION SUPPLEMENT CONT. – K.S.A. 22-4901 et seq. (PAGE 2 of 2)

SECTION B. REGISTRATION TERMS - check appropriate boxes indicating REQUIRED TERM of registration
See K.S.A. 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. 21-5401
- ☐ Murder in the First Degree – K.S.A. 21-5402
- ☐ Murder in the Second Degree – K.S.A. 21-5403
- ☐ Voluntary Manslaughter – K.S.A. 21-5404
- ☐ Involuntary Manslaughter – K.S.A. 21-5405(a)(1), (a)(2) or (a)(4)
- ☐ Sexual Battery- K.S.A. 21-5505(a)
- ☐ Criminal Restraint – K.S.A. 21-5411 (except by parent, and only when victim is less than 18 years of age)
- ☐ Any act determined beyond a reasonable doubt to have been sexually motivated AND the act did not involve non-forcible sexual conduct between a victim at least 14 and offender no more than 4 years older than victim – K.S.A. 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. 22-4902(e)(2)
- ☐ An offense not otherwise required, as provided by the Kansas Offender Registration Act, K.S.A. 22-4902(a)(5)
- ☐ **Manufacture** or attempted manufacture of any controlled substance – K.S.A. 21-5703
- ☐ **Possession of precursors** with intent to manufacture any controlled substance – K.S.A. 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. 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. 21-5511
  - ☐ Buying Sexual Relations – K.S.A. 21-6421
  - ☐ Lewd and Lascivious Behavior – K.S.A. 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. 21-5508
- ☐ Electronic Solicitation – K.S.A. 21-5509
- ☐ Agg. Incest – K.S.A. 21-5604(b)(1)
- ☐ Indecent Liberties With a Child – K.S.A. 21-5506(a)
- ☐ Unlawful Sexual Relations – K.S.A. 21-5512
- ☐ Agg. Sexual Battery – K.S.A. 21-5505(b)
- ☐ Sexual Exploitation of a Child – K.S.A. 21-5510, if the victim is at least 14 years of age but less than 18 years of age
- ☐ Promoting Prostitution – K.S.A. 21-6420, if the victim is at least 14 years of age but less than 18 years of age
- ☐ Criminal Sodomy - K.S.A. 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. 21-5503
  - ☐ Agg. Kidnapping – K.S.A. 21-5408(b)
  - ☐ Kidnapping – K.S.A. 21-5408(a)
  - ☐ Agg. Criminal Sodomy – K.S.A. 21-5504(b)
  - ☐ Criminal Sodomy – K.S.A. 21-5504(a)(3) or (a)(4)
  - ☐ Agg. Indecent Liberties With a Child – K.S.A. 21-5506(b)
  - ☐ Agg. Indecent Solicitation of a Child – K.S.A. 21-5508(b)
  - ☐ Agg. Human Trafficking – K.S.A. 21-5426(b)
  - ☐ Sexual Exploitation of a Child – K.S.A. 21-5510, if the victim is less than 14 years of age
  - ☐ Commercial Sexual Exploitation of a Child – K.S.A. 21-6422
  - ☐ Promoting Prostitution – K.S.A. 21-6420, if the victim is less than 14 years of age
  - ☐ Any attempt, conspiracy or criminal solicitation of an offense defined in this section

☐ **Duration determined by diversionary agreement, probation order or juvenile sentencing order: _____ years _____ months (K.S.A. 22-4906(i))**