

# ARKANSAS COURT OF APPEALS

DIVISION II

No. CACR12-469

JESSE HOODENPYLE

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** February 20, 2013

APPEAL FROM THE CRAWFORD  
COUNTY CIRCUIT COURT  
[17CR-2010-169 II]

HONORABLE MICHAEL MEDLOCK,  
JUDGE

REMANDED TO CORRECT AND  
SUPPLEMENT THE RECORD

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## DAVID M. GLOVER, Judge

Jesse Hoodenpyle was convicted by a jury of first-degree battery for injuries suffered by his two-month-old daughter, Taylor Hoodenpyle. He was sentenced to five years in the Arkansas Department of Correction. On appeal, Hoodenpyle argues that the trial court erred (1) in denying his motion for directed verdict because the State failed to prove that he knowingly caused physical injury to Taylor; (2) in allowing Taylor to be used as a demonstrative exhibit; (3) in denying his proffered jury instruction on a lesser-included offense; and (4) in denying defense counsel the ability to argue at sentencing for an alternative sentence of probation or a suspended imposition of sentence. We must remand this case due to errors in the judgment and commitment order.



Hoodenpyle was originally charged with battery in the first degree by knowingly causing “serious physical injury to any person four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life.” Ark. Code Ann. § 5-13-201(a)(9) (Supp. 2011). Under this subsection, the offense is a Class Y felony. Ark. Code Ann. § 5-13-201(c)(2). However, Hoodenpyle was convicted of first-degree battery for “knowingly, without legal justification, caus[ing] serious physical injury to a person he or she knows to be twelve (12) years of age or younger.” Ark. Code Ann. § 5-13-201(a)(7). Under this subsection, the offense is a Class B felony. Ark. Code Ann. § 5-13-201(c)(1). Nevertheless, Hoodenpyle’s judgment and commitment order reflects that Hoodenpyle was convicted of the more serious offense of causing serious physical injury to a person four years of age or younger, and it further reflects that he was convicted of a Class Y felony instead of the Class B felony.

This court can *sua sponte* direct that this misstatement be corrected by filing a certified, supplemental record. *Goldsberry v. State*, 2011 Ark. App. 556. For this reason, we remand this case to the circuit court with direction that this error be corrected and the record be supplemented. Hoodenpyle has thirty days from today to file a supplemental record with this court. After the record is corrected and supplemented, the addendum will also need to be supplemented with the corrected judgment and commitment order.

Remanded to correct and supplement the record.

WALMSLEY and BROWN, JJ., agree.

*Norris Legal Drafting*, by: *Lisa-Marie Norris*, for appellant.

*Dustin McDaniel*, Att’y Gen., by: *Eileen W. Harrison*, Ass’t Att’y Gen., for appellee.