

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

STATE OF MISSOURI

Respondent

v.

MICHAEL F. STALLINGS

Appellant

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DOCKET NUMBER WD75001

DATE: August 27, 2013

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Appeal From:

Circuit Court of Clay County, MO  
The Honorable Larry D. Harman, Judge

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Appellate Judges:

Division One  
Gary D. Witt, P.J., Thomas H. Newton, and Mark D. Pfeiffer, JJ.

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Attorneys:

S. Kate Webber, Kansas City, MO

Counsel for Appellant

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Attorneys:

Jessica Meredith, Jefferson City, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

STATE OF MISSOURI, Respondent, v.  
MICHAEL F. STALLINGS, Appellant

**WD75001**

**Clay County**

Before Division One Judges: Witt, P.J., Newton, and Pfeiffer, JJ.

Stallings was pulled over by a State Highway Trooper while driving a Ford Focus with no license plate. The Trooper's computer search did not reveal that Stallings had warrants or that the Ford Focus was stolen. The Trooper issued a warning to Stallings and released him. The next day, a dealership reported vehicle thefts, which included the Ford Focus. The State charged Stallings with first-degree tampering for operating the Ford Focus knowing that he lacked the owner's consent.

At trial, Stallings testified that he did not know the Ford Focus was stolen. On direct examination, Stallings admitted to having prior criminal convictions, including previous tampering convictions. On cross-examination, the State questioned Stallings about the facts of the prior convictions. Defense counsel objected that the State sought inadmissible details and the court overruled the objection. The State then elicited that Stallings's prior convictions involved car dealerships and a car rental agency.

During closing argument, the State argued that Stallings knew that he lacked consent to operate the Ford Focus "just like in those other cases he pled guilty to." The jury returned a verdict of guilty. Stallings appeals.

**REVERSED AND REMANDED.**

**Division One Holds:**

In his first point, Stallings challenges the constitutionality of section 569.080.3, which allows the State to admit evidence of tampering on separate occasions to establish the knowledge element of first-degree tampering. In his second point, Stallings challenges the trial court's ruling permitting the State to cross-examine him about details of his prior convictions because he contends it set forth improper propensity evidence. Because we dispose of the case on the second point, we do not address the first point.

Prior convictions are admissible to impeach a defendant who testifies at trial. On cross-examination of a defendant, the State may adduce the nature of the crime, the sentence for it, and the time and the place of those prior crimes. However, the law precludes the State from eliciting factual details of those crimes to avoid the possibility that the fact finder might focus on the prior crimes rather than the evidence adduced to support the charged offense. However, factual details of prior convictions are admissible, if logically and legally relevant, for purposes other than impeachment. Prior convictions are never admissible to show a defendant's propensity to commit a crime.

Here, the State went beyond the scope of proper cross-examination when it elicited details about Stallings's priors to attempt to show Stallings had a pattern of criminal behavior involving car dealers. Using prior convictions to develop a pattern was not proper under case law nor section 569.080.3. First, the Missouri Supreme Court has concluded that the use of prior convictions to show a pattern is no longer a proper purpose. Second, the facts elicited by the State did not reflect Stallings's knowledge, but rather his conduct.

The improperly admitted facts prejudiced the minds of the jury by suggesting that Stallings was guilty of the tampering charge in the instant case based on propensity. This prejudice was exacerbated by the State's argument asking the jurors to consider those prior convictions in deciding whether Stallings knew he lacked consent to operate the Ford Focus, and the prejudice was not eliminated by jury instruction.

We therefore reverse and remand for a new trial.

Opinion by Thomas H. Newton, Judge

August 27, 2013

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