

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

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

RANDALL G. EVANS,

Appellant.

DOCKET NUMBER WD75621

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: August 27, 2013

APPEAL FROM

The Circuit Court of Nodaway County, Missouri
The Honorable Roger M. Prokes, Judge

JUDGES

Division Two: Newton, P.J., and Mitchell and Witt, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Attorneys for Respondent,

Janet Wake Larison
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Attorney for Appellant.



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

STATE OF MISSOURI,)
)
) **Respondent,**)
v.) **OPINION FILED:**
) **August 27, 2013**
RANDALL G. EVANS,)
)
) **Appellant.**)

WD75621

Nodaway County

Before Division Two Judges: Thomas H. Newton, Presiding Judge, and Karen King Mitchell and Gary D. Witt, Judges

Randall Gene Evans appeals, following a jury trial, his four convictions pursuant to section 571.070 for unlawful possession of a firearm, for which he was sentenced to four concurrent seven-year terms of imprisonment. On appeal, Evans challenges the sufficiency of the evidence to support his convictions, the trial court's exclusion of any evidence or argument about the State's failure to obtain fingerprint evidence, and several allegedly improper remarks made by the State during closing argument. Because the evidence was sufficient and there was no error in either the exclusion of evidence or the State's remarks during closing argument, Evans's convictions and sentences are affirmed.

AFFIRMED.

Division Two holds:

1. Because the home where the firearms were located was jointly controlled by both Evans and an overnight guest, the State had to present additional incriminating circumstances in order to prove Evans's knowledge and awareness of the weapons in the home.
2. The State presented sufficient additional incriminating circumstances to prove Evans's knowledge and awareness by demonstrating that Evans was the homeowner, Evans was familiar with the firearms at issue before his overnight guest ever entered

the home, and the decree from Evans's dissolution from his wife indicated that Evans's had possession of the firearms at issue.

3. Without deciding whether knowledge that possession is illegal is an element of the crime of unlawful possession of a firearm, the court concludes that the evidence presented was more than sufficient to demonstrate that Evans knew that, as a felon, he was not allowed to possess weapons.
4. Evans was not allowed to draw an adverse inference from the State's failure to obtain fingerprint evidence.
5. The State's comments during closing argument were either based on the evidence (or reasonable inferences derived therefrom) or did not result in any prejudice to Evans. Thus, the trial court committed no error in either overruling Evans's objections or failing to sua sponte intervene.

Opinion by: Karen King Mitchell, Judge

August 27, 2013

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