

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION TWO**

STATE OF MISSOURI,	)	No. ED100133
	)	
Plaintiff/Respondent,	)	Appeal from the City of St. Louis
	)	Circuit Court
vs.	)	
	)	Honorable Mark H. Neill
TIM WASHINGTON,	)	
	)	Filed: August 26, 2014
Appellant/Defendant.	)	

Tim Washington (Defendant) appeals his convictions of first-degree robbery and armed criminal action. On appeal, Defendant claims that the trial court abused its discretion by allowing into evidence the pretrial and in-court identifications of Defendant. Defendant also claims that the trial court abused its discretion by failing to provide a limiting instruction when the State, in its closing argument, argued facts not in evidence and improperly shifted the burden of proof to Defendant.

AFFIRMED.

Division Two Holds: The trial court did not abuse its discretion by admitting the pre-trial identifications of Defendant, given that the pre-trial police procedures were not unduly suggestive. The trial court did not abuse its discretion by allowing the State, in closing argument, to make an argument based on facts in evidence. No plain error occurred when the trial court allowed the State, in closing argument, to draw an adverse inference from Defendant's missing witnesses who were not equally available to the State.

Opinion by: Philip M. Hess, J.  
Sherri B. Sullivan, P.J. and Mary K. Hoff, J. concur.

Attorney for Appellant: Amy E. Lowe

Attorney for Respondent: Adam S. Rowley

<b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b>
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