

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

**DIVISION TWO**

STATE OF MISSOURI,	)	No. ED101482
	)	
Respondent,	)	
	)	Appeal from the City of St. Louis
vs.	)	Circuit Court
	)	
TJ RUSSELL,	)	Honorable Michael F. Stelzer
	)	
Appellant.	)	Filed: June 9, 2015

T.J. Russell (Defendant) appeals the judgment and sentence of the trial court entered after a jury convicted him of first-degree murder and armed criminal action. Defendant argues that the trial court (1) clearly erred in admitting the identification testimony of three witnesses and (2) plainly erred by allowing the State’s comments regarding deliberation in closing argument.

**AFFIRMED.**

**Division Two Holds:**

- (1) The trial court did not clearly err in denying Defendant’s motion to suppress the identification testimony. Defendant failed to show police misconduct in the identification process, and therefore the identification testimony did not violate Defendant’s right to due process. Additionally, Defendant failed to show that the identification testimony’s probative value was outweighed by prejudice caused by the identifications’ unreliability.
- (2) The trial court did not plainly err in allowing the State’s argument regarding deliberation during closing argument. The use of “conscious disregard” in closing argument was not plain error, and the jury was properly instructed on the meaning of deliberation.

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

Attorney for Appellant: Andrew E. Zleit

Attorney for Respondent: Dora A. Fichter

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