

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,) ED102736
)
 Respondent,) Appeal from the Circuit Court
) of the City of St. Louis
 v.) 1322-CR04521
)
 JERALD L. HARRIS,) Honorable Robert H. Dierker, Jr.
)
 Appellant.) Filed: March 15, 2016

Jerald L. Harris (Defendant) appeals the judgment entered upon his convictions of three counts of first-degree robbery, one count of attempted first-degree robbery, attempted forcible sodomy, kidnapping, resisting arrest, and six associated counts of armed criminal action. Defendant argues the trial court erred in admitting out-of-court identification evidence and related testimony because the identification procedures used by the police were unduly suggestive and rendered the identifications unreliable.

AFFIRMED.

Division Two Holds: The trial court’s conclusion that the identification procedures used by police were not unduly suggestive is supported by substantial evidence on the whole record. Defendant’s clothing was not a factor in the victims’ identifications, and the height differences among the lineup participants were within a couple inches and were not such that one person stood out. The fact that the victims listened to the participants’ voices in the audio lineup in the same order as they viewed photographs from the physical lineup was not unduly suggestive because it most closely mirrored a live lineup, which would have included the participants stepping forward in order to repeat phrases from the robberies. The trial court did not clearly err in denying Defendant’s motion to suppress.

Opinion by: Gary M. Gaertner, Jr., J.
 Philip M. Hess, P.J., and Angela T. Quigless, J., concur.

Attorney for Appellant: Amanda Faerber
 Attorneys for Respondent: Chris Koster, Christine Lesicko

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