

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED103082
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court of
)	the City of St. Louis
v.)	
)	Honorable Thomas J. Frawley
KAVIN RACHEL,)	
)	
Defendant/Appellant.)	Filed: November 8, 2016

Kavin Rachel (Appellant) appeals from the trial court’s judgment entered upon a jury verdict acquitting him of first-degree statutory rape, Count I, and convicting him of three separate counts of first-degree statutory sodomy, Counts II, III, and IV.

AFFIRMED.

Division Two Holds: The trial court did not abuse its discretion in failing to declare a mistrial based on alleged witness misconduct in the form of Victim’s mother coaching Victim to testify Appellant raped her because an independent evidentiary hearing held on the matter resulted in the trial court concluding Victim was not impermissibly coached.

The trial court did not err in denying Appellant’s motion for judgment of acquittal because the evidence was sufficient to support his convictions of first-degree statutory sodomy as alleged in Counts II and IV, in that the State proved beyond a reasonable doubt he committed the charged acts of deviate sexual intercourse while in Victim’s mother’s bedroom (Count II) and while in Victim’s bedroom (Count IV).

Verdict directors, Instructions 6, 7, and 8 on the statutory sodomy acts charged in Counts II, III, and IV, sufficiently differentiated between and did not improperly hypothesize the multiple sex acts underlying each count, ensuring the jury reached a unanimous verdict based on the same acts of deviate sexual intercourse supported by evidence presented at trial.

Opinion by: Sherri B. Sullivan, P.J. Roy L. Richter, J., and Colleen Dolan, J., concur.

Attorney for Appellant: Gwenda R. Robinson

Attorney for Respondent: Evan J. Buchheim

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.