

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,) No. ED91872
)
 Respondent,) Appeal from the Circuit Court
) of Jefferson County
v.)
) Case Number: 07JE-CR00130-01
)
MICHAEL PARTAIN,) Honorable Gary P. Kramer
)
 Defendant/Appellant.) Filed: May 18, 2010

Michael Partain (Defendant) appeals from the trial court’s judgment entered upon a jury verdict convicting him of child molestation in the first degree, in violation of Section 566.067 RSMo 2000.

AFFIRMED, but REMANDED WITH INSTRUCTION TO CORRECT JUDGMENT NUNC PRO TUNC.

Division Four Holds: The trial court did not err, plainly or otherwise, or abuse its discretion in allowing the jury to view during its deliberations a properly admitted videotaped interview of the child victim because: 1) the videotape was distinct and not a duplicate of the victim’s trial testimony, State v. Parker, 208 S.W.3d 331, 339 n.9; and 2) the trial court controlled the jury’s exposure to the exhibit during deliberation by having it view the videotape in the courtroom and by playing the recording only once. Id. at 339.

Defendant’s judgment of conviction should be corrected, nunc pro tunc, to reflect that Defendant was found guilty by a jury.

Opinion by: Gary M. Gaertner, Jr., J.
Kurt S. Odenwald, P.J., and George W. Draper III, J. concur.

Attorneys for Appellant: Matthew Ward

Attorneys for Respondent: Chris Koster
John M. Reeves

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.