

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

STATE OF MISSOURI,	)	No. ED93221
	)	
Plaintiff/Respondent,	)	Appeal from the Circuit Court
	)	of Jefferson County
v.	)	
	)	
JEFFREY GARVEY,	)	Honorable Gary P. Kramer
	)	
Defendant/Appellant.	)	Filed: October 5, 2010

Jeffrey Garvey (Appellant) appeals from the trial court’s judgment entered upon a jury verdict convicting him of four counts of first-degree statutory sodomy, two counts of first-degree molestation, and one count of attempted first-degree statutory rape. On appeal, Appellant argues that the trial court (1) erred in denying his challenge to two prospective jurors for cause based on those jurors’ experiences with sexual assault; (2) committed plain error in failing to declare a mistrial after the prosecutor stated that defense counsel had lied during his closing argument, and (3) erred in overruling his objection to the examining doctor’s testimony regarding the frequency with which he found evidence of sexual trauma in other examinations he had conducted. The trial court’s judgment is affirmed.

AFFIRMED.

Division Three Holds: The trial court did not err in (1) denying Appellant’s challenge to the prospective jurors in light of the jurors’ unequivocal assertions that they could be fair and impartial jurors and could follow the court’s instructions; (2) failing to *sua sponte* declare a mistrial during the prosecutor’s closing argument because the prosecutor’s comments were not based on matters outside the record and were made in response to Appellant’s closing argument; and (3) overruling Appellant’s objection to the doctor’s testimony, in that the testimony was logically and legally relevant because it negated the inference raised by Appellant that a lack of physical findings during the victim’s pelvic examination made the victim’s allegations of sexual abuse less probable and the evidence’s probative value outweighed any potential prejudice to Appellant. We affirm the trial court’s judgment.

Opinion by: Sherri B. Sullivan, P.J. Clifford H. Ahrens, J., and Lawrence E. Mooney, J., concur.

Attorney for Appellant: Michael A. Gross  
Attorneys for Respondent: Chris Koster and James B. Farnsworth

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