

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,) No. ED95223
) Appeal from the Circuit Court of
vs.) St. Louis County
) Honorable Tommy W. DePriest, Jr.
CLARENCE THOMPSON, JR., Appellant.) Filed: May 17, 2011

Clarence Thompson (Defendant) appeals the judgment of conviction entered after a jury found him guilty of three counts of statutory rape and one count of statutory sodomy. Defendant claims the trial court erred by: (1) allowing the State to introduce a child witness's (the victim's brother) deposition testimony where it lacked sufficient indicia of reliability as required by Section 491.075; (2) allowing the State to introduce a child witness's deposition testimony despite the conflict between Section 491.075 and Rule 25.16 governing the use of depositions in criminal trials; (3) admitting evidence of uncharged sexual acts Defendant committed against the victim in another state and preventing Defendant from cross-examining the victim about alleged prior false allegations of abuse; and (4) admitting the victim's videotaped statements pursuant to Section 492.304 and the victim's hearsay statements through the testimony of various other witnesses pursuant to Sections 491.075.

AFFIRMED.

Division Five Holds: The trial court did not err: (1) in admitting the deposition testimony of the victim's brother because the totality of the circumstances surrounding the deposition provided sufficient indicia of reliability; (2) in admitting the victim's brother's deposition testimony pursuant to Section 491.075, despite the statute's alleged conflict with Rule 25.16, because Defendant could not demonstrate that the admission of the deposition testimony resulted in a manifest injustice or miscarriage of justice; (3) in admitting evidence of Defendant's uncharged acts of sexual abuse that he committed against the victim because evidence of prior sexual misconduct against the victim was admissible to prove motive; (4) in preventing defense counsel from cross-examining the victim about prior allegations of sexual abuse because Defendant failed to demonstrate the probative value of the proffered evidence; and (5) in admitting the victim's videotaped and hearsay statements pursuant to Sections 492.304 and 491.075 because, even though the victim was older than fourteen at the time of trial, she was under fourteen years of age when she made the statements.

Opinion by: Patricia L. Cohen, J.
Gary M. Gaertner, Jr., P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Patricia A. Harrison

Attorney for Respondent: Shaun J. Mackelprang

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IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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