



In the Missouri Court of Appeals Eastern District

DIVISION ONE

STATE OF MISSOURI,)	No. ED99077
)	
Respondent,)	Appeal from the Circuit Court
)	of City of St. Louis
vs.)	
)	Honorable Robert H. Dierker, Jr.
JOHNNIE MOORE,)	
)	
Appellant.)	FILED: October 22, 2013

Johnnie Moore ("Defendant") appeals from the trial court's judgment, following a jury's guilty verdict of two counts of rape and two counts of sodomy, in violation of Sections 566.030, RSMo Cum. Sup. 2010, and 566.060, respectively.

AFFIRMED.

Division One Holds: First, the State's inadvertent failure to disclose its witness's suspended imposition of sentence ("SIS") did not violate either Rule 25.03 or Brady v. Maryland, 373 U.S. 83 (1963). Under Rule 25.03, the State is not required to disclose that its witness received an SIS because an SIS is not considered a "prior conviction." Furthermore, while the State failed to disclose Brady material, such nondisclosure was not prejudicial. Second, Defendant failed to properly preserve his second point for appeal and this Court declines to exercise plain error review.

Opinion by: Roy L. Richter, P.J.
Clifford H. Ahrens, J., and Glenn A. Norton, J., concur

Attorneys for Appellant: Roxanna A. Mason
Attorneys for Respondent: Chris Koster, Daniel N. McPherson

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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