

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED99841
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
v.)	
)	
BELVIN L. WILLIAMS, JR.,)	Honorable Steven R. Ohmer
)	
Defendant/Appellant.)	Filed: April 1, 2014

Belvin L. Williams, Jr. (Appellant) appeals from the trial court’s judgment convicting him of first-degree assault, first-degree robbery and two counts of armed criminal action. On appeal, Appellant argues the trial court (1) abused its discretion by denying his request to replace a juror alleged to have been sleeping during the trial; (2) abused its discretion in permitting Appellant’s parole officer to testify as to the operation of the electronic monitoring system because the testimony lacked a proper foundation and was outside the witness’s expertise; and (3) plainly erred in permitting Appellant’s parole officer to testify as to any information she obtained concerning Appellant, including the results of the electronic monitoring system, because the information was privileged and inadmissible pursuant to Section 559.125.2 RSMo 2012.

AFFIRMED.

Division Five Holds: The trial court did not abuse its discretion in denying Appellant’s motion to replace a juror because the court found it was unnecessary to replace the juror after personally observing the juror’s behavior and conducting an examination of the juror in which the juror asserted he had not fallen asleep or missed the presentation of any evidence. The trial court did not abuse its discretion in admitting the parole officer’s testimony regarding the electronic monitoring system because the officer possessed the qualifications to testify about the device and the reports it generated and the extent of her experience and training went to the weight, not the admissibility, of the testimony. The trial court did not plainly err in permitting the parole officer to testify because Appellant waived any alleged statutory privilege by raising his parole status and alleged compliance with the restriction of his parole to support his alibi defense at trial.

Opinion by: Sherri B. Sullivan, J. Robert M. Clayton III, C.J., and Angela T. Quigless, J., concur.

Attorney for Appellant: Timothy Forneris
Attorneys for Respondent: Daniel N. McPherson

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