

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

STATE OF MISSOURI,)	No. ED99883
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	
AARON D. LUCY,)	Hon. Robin R. Vannoy
)	
Appellant.)	FILED: August 26, 2014

Aaron Lucy (“Defendant”) appeals from the judgment of the trial court entered after a jury convicted him of murder in the first degree (Count 1), abuse of a child resulting in death (Count 3), two counts of armed criminal action (Counts 2 and 4), and tampering with physical evidence (Count 5).

AFFIRMED.

DIVISION ONE HOLDS: (1) Defendant’s convictions for murder in the first degree and abuse of a child resulting in death did not constitute double jeopardy under the U.S. Constitution and are not included offenses under section 556.041(1) RSMo 2000, as each offense requires proof of a fact that the other offense does not. (2) Defendant’s offenses in Count I and Count 3 did not constitute a continuing course of conduct under section 556.041(4) RSMo 2000, where neither offense is defined as such, and this Court has already held that conventional second degree murder and abuse of a child resulting in death are not continuing courses of conduct. (3) There was sufficient substantial and competent evidence for a reasonable jury to find beyond a reasonable doubt that Defendant caused K.L.’s death after deliberation upon the matter. (4) There was sufficient evidence for a jury to find Defendant guilty beyond a reasonable doubt of tampering with physical evidence. Tampering with physical evidence does not require that an official proceeding or investigation actually be impaired; it is sufficient if a person has the purpose of impairing an official proceeding or investigation. (5) The trial court did not plainly err in instructing the jury on armed criminal action. The State only has to prove that a “dangerous instrument” was used, and does not have to specifically identify what “dangerous instrument” was used.

Opinion by: Clifford H. Ahrens, J.
concur.

Lawrence E. Mooney, P.J., and Glenn A. Norton, J.,

Attorney for Appellant: Edward Thompson

Attorney for Respondent: Gabriel Harris

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.