

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,) No. ED99963
) Appeal from the Circuit Court of
vs.) Monroe County
) Honorable Rachel L. Bringer Shepherd
AUSTIN D. RILEY, Appellant.) Filed: June 24, 2014

Austin Riley (Defendant) appeals from the judgment of conviction entered by the Circuit Court of the County of Monroe after a jury found him guilty of possession of a controlled substance. Defendant claims that the trial court erred in: (1) denying his motion for judgment of acquittal; (2) excluding evidence of an excited utterance; and (3) failing to *sua sponte* declare a mistrial or give a curative instruction during the prosecutor's closing argument.

AFFIRMED.

Division Four Holds: The trial court did not err in: (1) denying Defendant's motion for judgment of acquittal because the State presented sufficient evidence of control to support the jury's finding that Defendant possessed methamphetamine; (2) excluding an out-of-court-statement as hearsay because Defendant failed to demonstrate the existence of a startling event sufficient to satisfy the excited utterance exception to the hearsay rule; and (3) failing to *sua sponte* declare a mistrial or give a curative instruction during the prosecutor's closing argument because no manifest injustice resulted.

Opinion by: Patricia L. Cohen, J.
Lisa S. Van Amburg, P.J., and Philip M. Hess, J., concur.

Attorney for Appellant: Craig A. Johnston

Attorney for Respondent: Dora A. Fichter

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