

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE:**

**STATE OF MISSOURI, RESPONDENT,**

**v.**

**MARSHALL A TILLMAN, APPELLANT.**

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DOCKET NUMBER WD69472

DATE: July 7, 2009

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Appeal From:  
JACKSON COUNTY CIRCUIT COURT  
THE HONORABLE BRIAN CURTIS WIMES, JUDGE

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Appellate Judges:  
Division Two: Thomas H. Newton, C.J., P.J., Harold L. Lowenstein and James M.  
Smart, Jr., JJ.

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Attorneys:  
Ruth B. Sanders, Kansas City, MO, **for appellant.**

Shaun J. Mackelprang, Jefferson City, MO, **for respondent.**

**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, RESPONDENT**

**v.**

**MARSHALL A TILLMAN, APPELLANT**

WD69472

JACKSON COUNTY CIRCUIT COURT

Before Division Two Judges: Thomas H. Newton, C.J., P.J., Harold L. Lowenstein and James M. Smart, Jr., JJ.

Marshall Tillman was charged for crimes stemming from a woman's death more than fifteen years prior. A jury found him guilty of murder in the second degree, rape, and forcible sodomy. Tillman appeals.

**AFFIRMED.**

**Division Two holds:**

1. A current medical examiner is permitted to testify regarding her independent conclusions and opinions reached from reviewing a former medical examiner's autopsy report and accompanying documents.
2. When the trial court effectively sustains an objection to a current medical examiner testifying about a former medical examiner's opinion, and the current medical examiner spontaneously testifies about the former medical examiner's opinion, a claim of error is not preserved if the defendant failed to object or request a remedy.
3. It was not error for a charging instrument to allege a defendant strangled a victim and a verdict director to require the jury to find that the victim died of strangulation or through blunt force trauma where the defendant is the party who introduced evidence of blunt force trauma and where the cause of death is not an element of murder so that the defendant could not have avoided conviction by arguing that he intentionally killed the victim through infliction of blunt force trauma as opposed to strangulation.
4. Autopsy photographs were admissible as business records where the medical examiner sufficiently testified that she was the custodian of the photographs, they were of the victim's body, and they were taken during the autopsy as part of the regular course of business of performing an autopsy.

**Opinion by: James M. Smart, Jr., Judge**

July 7, 2009

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