

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI,
v.

Respondent,

TERRY A. BLAIR,

Appellant.

DOCKET NUMBER **WD69602**

DATE: August 18, 2009

Appeal From:

Circuit Court of Jackson County, MO
The Honorable John R. O'Malley, Judge

Appellate Judges:

Special Division: Joseph M. Ellis, P.J., James E. Welsh, J., and Zel M. Fischer,
Sp.J.

Attorneys:

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MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI, RESPONDENT,
v.
TERRY A. BLAIR, APPELLANT.**

No. WD69602

Jackson County

Before Special Division Judges: Joseph M. Ellis, P.J., James E. Welsh, J., and Zel M. Fischer, Sp.J.

Terry A. Blair appeals from his six separate murder convictions and six consecutive sentences of life without parole that resulted from a single bench trial. The issues he raises on appeal are: (1) the sufficiency of the evidence to support the convictions; (2) whether the trial court made inappropriate findings not supported by the record; and (3) whether the trial court erred in not suppressing his statements based on the failure of the police to preserve the audio-visual recording of the interrogation.

AFFIRMED.

Special Division holds:

(1) Sufficient evidence exists to support all six of Blair's convictions for first-degree murder. At trial and oral argument, it was conceded that one person killed all six victims. An anonymous 911 caller identified the location of all six bodies and admitted to killing them. The record supports the determination that Blair was the anonymous 911 caller. Blair fit the description of the 911 caller as an urban, native-English-speaking, African-American male in the lower-middle to upper working class; test calls made by police established that the caller and Blair were in the same vicinity when the calls were made; and Blair made comments very similar to the 911 caller.

A test of material taken from under one victim's fingernails revealed male DNA. Semen found on both of the victim's thighs was tested and proven to be Blair's DNA. Rectal and vaginal swabs also contained Blair's DNA. Blair's denial of having ever known or having sex with the victim evidenced a consciousness of guilt. Blair also showed a consciousness of guilt when he hid from the police after seeing himself described as a person of interest in the case. These facts corroborate his confession.

As to the other victims, Blair identified himself as their killer in the 911 calls, which is direct evidence of his guilt; furthermore, as significant evidence supporting the sufficiency of his convictions, Blair identified where their bodies were concealed, and he showed a consciousness of guilt for their murders when he hid from the police.

(2) The court did not rely on evidence or inferences from the evidence not supported by the record to determine that Blair murdered one of the victims. The record contains evidence that semen will dissipate from the vaginal vault after being deposited and that its presence in or on a body can be affected by gravity or clothing. The trial court applied expert testimony to the facts of the case to support its inferences about how clothing, body functions, and personal care would have affected the semen in the victim's vagina and on her thighs.

(3) The issue of whether law enforcement is constitutionally required to record an interrogation is one of first impression in Missouri. There is nothing in the text of the Missouri Constitution that requires recording custodial interrogations. The United States Supreme Court has not held that the United States Constitution imposes this requirement. The Missouri legislature recently enacted section 590.701, effective August 28, 2009, which requires the recording of all custodial interrogations of persons suspected of committing to attempt or committing specific violent crimes. Nevertheless, this new statute would not provide future defendants with the relief sought by Blair. Under the new law, failure to record the interrogation results in the loss of funding to the offending police agency. Section 590.701.6 specifically states, "Nothing in this section shall be construed as a ground to exclude evidence."

Opinion by: Zel M. Fischer, Special Judge

Date: August 18, 2009

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