

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

LARRY ELDO UPTEGROVE,

Appellant.

DOCKET NUMBER WD72356

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: January 18, 2011

APPEAL FROM

The Circuit Court of Henry County, Missouri
The Honorable James K. Journey, Judge

APPELLATE JUDGES

Division Two: James Edward Welsh, Presiding Judge, and Mark D. Pfeiffer
and Karen King Mitchell, Judges

ATTORNEYS

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

STATE OF MISSOURI,)
)
Respondent,)
v.)
)
LARRY ELDO UPTEGROVE,)
)
Appellant.)

WD72356

Henry County

Before Division Two Judges: James Edward Welsh, Presiding Judge, and
Mark D. Pfeiffer and Karen King Mitchell, Judges

Larry E. Uptegrove appeals his convictions on two counts of child molestation in the first degree. Uptegrove raises two points on appeal, contending that (1) there was insufficient evidence to convict him under section 566.067 because Uptegrove claims that the trial court should not have admitted the victim’s trial testimony into evidence because he claims to do so was in violation of the destructive contradictions doctrine; and (2) the trial court improperly allowed the victim to testify regarding Uptegrove’s prior misconduct toward the victim.

AFFIRMED.

Division Two holds:

We find that the victim’s testimony was properly admitted into evidence by the trial court. Under the destructive contradictions doctrine, when a victim’s *trial* testimony is strikingly inconsistent and contradictory, it is not probative evidence unless corroborated. However, the destructive contradictions doctrine is inapplicable to the victim’s testimony in the present case because the doctrine is applicable only to a witness’s testimony *at trial*, not to contradictions between trial testimony and pre-trial statements or to situations where the victim’s statements are inconsistent with those of other witnesses. Furthermore, evidence of Uptegrove’s prior misconduct is admissible because it is logically and legally relevant – the evidence establishes Uptegrove’s motive or intent to “arouse or satisfy” his sexual desires, a required element of the crimes charged.

Opinion by: Mark D. Pfeiffer, Judge

January 18, 2011

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