

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

AUNDRA G. WOODS.

Appellant

DOCKET NUMBER WD72561

DATE: January 24, 2012

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Justine Elisa Del Muro, Judge

Appellate Judges:

Division One
Alok Ahuja, P.J., Thomas H. Newton, and James Edward Welsh, JJ.

Attorneys:

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Co-Counsel for Appellant

Attorneys:

Evan Buchheim, Jefferson City, MO

Counsel for Respondent

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

**STATE OF MISSOURI, Respondent, v.
AUNDR A G. WOODS, Appellant**

WD72561

Jackson County

Before Division One Judges: Ahuja, P.J., Newton, and Welsh, JJ.

Aundra G. Woods appeals from the circuit court's judgment convicting him of forcible sodomy and assault in the second degree. Woods contends that the circuit court erred in finding that he had violated Supreme Court Rule 25.05(A) by not turning over notes made by his investigator and by sanctioning him by excluding the investigator from testifying and by excluding cross-examination of witnesses regarding contact with the investigator. He also contends that the circuit court plainly erred by admitting evidence relating to the Rapid Strain Identification (RSID) test for saliva. Lastly, Woods asserts that the circuit court plainly erred in entering its written sentence and judgment that did not conform to the oral pronouncement of the sentence or the jury verdict.

AFFIRMED IN PART and REMANDED IN PART

Division One holds:

(1) Woods failed to make an offer of proof concerning the investigator's testimony, and, therefore, has not preserved this issue for appellate review. Moreover, Woods's claim does not facially establish substantial grounds for believing that he has been a victim of manifest injustice. Woods has not shown that the sanction for his discovery violation was fundamentally unfair. Therefore, we conclude that the circuit court did not abuse its discretion by excluding the testimony of the investigator.

(2) The circuit court did not plainly err in admitting the RSID test for saliva into evidence. Woods withdrew his objection to the admission of the RSID test results at trial and, therefore, waived appellate review. He is precluded from obtaining plain error review regarding the admission of this evidence.

(3) The circuit court erred in entering its written sentence and judgment, which did not conform to the oral pronouncement of the sentence or the jury's verdict. The written sentence and judgment stated that Woods was found guilty of first-degree assault, rather than second-degree assault as the jury verdict and oral pronouncement reflected. Therefore, a remand to the circuit court is necessary in this case for the sole purpose of entering a *nunc pro tunc* judgment to correct the written judgment to reflect that Woods was convicted of assault in the second degree.

Opinion by James Edward Welsh, Judge

January 24, 2012

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