IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

JEFFREY P. THOMPSON,

Appellant.

DOCKET NUMBER WD77727

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: March 1, 2016

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Edith L. Messina, Judge

JUDGES

Division II: Martin, P.J., and Pfeiffer and Mitchell, JJ. CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Gregory L. Barnes, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent,

Rosemary E. Percival, Assistant Public Defender
Kansas City, MO

Attorney for Appellant.

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

STATE OF MISSOURI,	)	
	)	
Respondent,	)	
v.	)	**OPINION FILED:**
	)	**March 1, 2016**
JEFFREY P. THOMPSON,	)	
	)	
Appellant.	)	

WD77727 **Jackson County**

Before Division II Judges: Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Jeffrey Thompson appeals the Judgment of the Circuit Court of Jackson County, Missouri, finding him guilty, following a jury trial, of two counts of robbery in the first degree and two counts of armed criminal action. Thompson admitted acting as the getaway driver for two men, one of whom carried a gun, who committed five robberies or attempted robberies. Thompson raises three points on appeal. First, he challenges the sufficiency of the evidence to support a heightened jury instruction that both of his passengers threatened the victims with the use of immediate physical force. Second, he challenges the admission of the redacted audio recording of his statement to the police, arguing that it contained inadmissible propensity evidence of three uncharged robberies. And third, he challenges the trial court's failure to declare a mistrial, *sua sponte*, because of the prosecutor's alleged propensity arguments in opening statement and closing argument.

AFFIRMED.

Division II holds:

1. A sufficiency challenge is assessed against the elements of the charged crime, not against the erroneously heightened burden in the jury instruction.

2. The evidence of uncharged crimes that were part of the circumstances or the sequence of events surrounding the charged offenses was admissible to present a complete and coherent picture of the events that transpired.

3. The prosecutor's remarks in opening statement were supported by the evidence at trial, and the trial court instructed the jury that it should not consider the prosecutor's opening statement to be evidence. The prosecutor was allowed to argue the evidence and all reasonable inferences from the evidence during closing arguments.

Opinion by: Mark D. Pfeiffer, Judge March 1, 2016

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