MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

Respondent

v.

MICHAEL L OGLESBY,

Appellant

DOCKET NUMBER WD82619
(Consolidated with WD82620)

DATE: JANUARY 26, 2021

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Marco Roldan, Judge

Appellate Judges:

Division Four
Cynthia L. Martin, Chief Judge, Presiding, Mark D. Pfeiffer, Judge, Anthony Rex Gabbert, Judge

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Attorneys:

Gregory L. Barnes, Jefferson City, MO,
Counsel for Respondent

Attorneys:

Jonathan Sternberg, Kansas City, MO,
Counsel for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
MICHAEL L OGLESBY, Appellant.

WD82619 (consolidated with WD82620) **Jackson County**

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Mark D. Pfeiffer, Judge, and Anthony Rex Gabbert, Judge

Michael Oglesby appeals the circuit court's judgment, entered on a jury verdict, convicting him of seven counts of first-degree statutory sodomy in violation of Section 566.060, RSMo Cum. Supp. 2013, and four counts of first-degree child molestation in violation of Section 566.067, RSMo Cum. Supp. 2013. Oglesby argues on appeal that the circuit court, 1) erred in denying his motion to set aside the verdicts on the charges from the June 2018 indictment and order a new trial on the remaining four charges from the first trial, arguing the trial and convictions on the June 2018 charges violated his right to be free from double jeopardy, 2) erred in denying Oglesby's motion to set aside the verdicts on the charges from the June 2018 indictment and order a new trial on the remaining four charges, arguing the June 2018 indictment represented prosecutorial vindictiveness, 3) erred in denying Oglesby a new trial due to prosecutorial misconduct, and 4) erred in quashing Oglesby's December 2018 subpoenas to depose K.O., A.O., and N.O.

AFFIRMED.

Division Four holds:

1) The circuit court did not plainly err in denying Oglesby's motion to set aside the verdicts on the charges from the June 2018 indictment and order a new trial on the remaining four charges from the first trial. Oglesby fails to make a threshold showing that a double jeopardy violation is determinable from the face of the record.

2) The circuit court did not plainly err in denying Oglesby's motion for new trial on the grounds of prosecutorial vindictiveness. Oglesby has failed to establish substantial grounds for believing there has been a manifest injustice or miscarriage of justice in the court's denial of his motion.

3) The circuit court did not err in denying Oglesby's motion for new trial on the grounds of prosecutorial misconduct. The record does not support Oglesby's claims of prosecutorial misconduct and, even if it did, the issue is now moot due to the court allowing the evidence Oglesby claims was improperly excluded in the first trial to be admitted in the second trial.

4) The circuit court did not plainly err in quashing Oglesby's subpoenas to take additional depositions of K.O., A.O. and N.O. Oglesby fails to establish substantial grounds for believing there has been a manifest injustice or miscarriage of justice in the court's quashing of Oglesby's subpoenas to take those additional depositions.

Opinion by: Anthony Rex Gabbert, Judge Date: January 26, 2021

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.