# OPINION SUMMARY

## MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

| | | |
|---|---|---|
| STATE OF MISSOURI, | ) | ED108518 |
| | ) | |
| Respondent, | ) | Appeal from the Circuit Court |
| | ) | of Warren County |
| | ) | |
| v. | ) | 18BB-CR00003-01 |
| | ) | |
| TIMOTHY DEAN BURROUGHS, | ) | Honorable Jason H. Lamb |
| | ) | |
| Appellant. | ) | Filed: March 30, 2021 |

Timothy Dean Burroughs (Appellant) appeals from the trial court's judgment, after a jury trial, convicting him of attempted rape in the first degree. He was sentenced to ten years of imprisonment.

AFFIRMED.

Division Two holds: The trial court did not abuse its discretion in admitting Appellant's extrajudicial statements to a detective because there was sufficient corroborating circumstances of the corpus delicti of the offense of attempted first-degree rape. The trial court did not err in admitting an officer's testimony of the victim's rape allegation because it was offered to explain the officer's subsequent conduct and not for its truth. The trial court committed harmless error by failing to instruct the jury that it could not consider the victim's out-of-court statements for their truth. Finally, the trial court did not err in convicting Appellant of attempted first-degree rape because there was sufficient evidence of the victim's incapacity.

Opinion by: Lisa P. Page, J.

Robin Ransom, P.J. and Sherri B. Sullivan, J., concur.

Attorney for Appellant: James C. Egan

Attorney for Respondent: Julia E. Rives

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