IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

JUSTIN A. FIELDS,

Appellant.

DOCKET NUMBER WD81843

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: May 11, 2021

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Charles H. McKenzie, Judge

JUDGES

Division Two: Pfeiffer, P.J., and Ahuja and Mitchell, JJ. CONCURRING.

ATTORNEYS

Eric S. Schmitt, Attorney General, and Evan J. Buchheim, Assistant Attorney General, Jefferson City, MO, Atorneys 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.
JUSTIN A. FIELDS, Appellant.

WD81843 **Jackson County**

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

After a jury trial, Mr. Justin A. Fields ("Fields") was convicted of attempted forcible rape in violation of section 566.030, RSMo. Fields now appeals the judgment of the Circuit Court of Jackson County, Missouri ("trial court").

In Fields's sole point on appeal, he contends that the trial court committed reversible error in overruling his objection to the prosecutor's questioning of the venire panel during voir dire wherein the prosecutor asked the venire members whether they could remember every detail of a major life event or scary event, and whether the venire members would hold it against any witness if the witness could not remember every detail of a major life event or scary event.

AFFIRMED.

Division Two holds:

1. To properly preserve error for appellate review the theory upon which the appellant's objection was made at trial must be the same theory that is presented in the motion for a new trial and the same theory that is raised on appeal. Fields has not maintained the same theory for his objections below as compared to his objection lodged on appeal.

2. The purpose of voir dire is to discover bias or prejudice in order to select a fair and impartial jury and, because there is no rigid formula for an adequate voir dire, a liberal latitude is allowed in the examination of jurors, as long as the scope of voir dire remains commensurate with its purpose to discover bias or prejudice in order to select a fair and impartial jury. Counsel may not, however, try the case on voir dire, seek to precondition jurors to react a certain way, or elicit a commitment from the jurors.

3. Under plain error review, we conclude that the prosecutor's questioning was aimed at uncovering whether the venire panel could be fair and impartial and did not seek to try the case on

voir dire, precondition jurors to react a certain way, or elicit a commitment from the perspective jurors and, therefore, there was no error in the trial court's ruling regarding voir dire, plain or otherwise.

Opinion by: Mark D. Pfeiffer, Presiding Judge May 11, 2021

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