In the Missouri Court of Appeals
Eastern District
DIVISION ONE

STATE OF MISSOURI,	)	No. ED108959
	)	
Respondent,	)	
	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	Cause No. 1822-CR04311-01
	)	
DARIN SCHMIDT,	)	Honorable Thomas C. Clark II
	)	
Appellant.	)	Filed: June 15, 2021

OPINION SUMMARY

Darin Schmidt ("Defendant") appeals the judgment entered on his convictions after a jury trial for murder in the first degree and armed criminal action arising from the shooting death of David Bewig, Jr. ("Victim").

REVERSED AND REMANDED FOR NEW TRIAL.

Division One holds:

Defendant's extrajudicial statements that he shot and killed Victim were admissible because they were corroborated by independent proof of the *corpus delicti*, namely, that Victim had died by a gunshot wound to the head. It was also reasonable to conclude from the evidence--there were two gunshot wounds to the right side of his head, Victim had a baggie, not a gun, in his right hand, and no gun was found near Victim--that this was not a suicide. It was not plain error to admit the statements.

It was, however, plain error to allow the State's witnesses who heard Defendant make those statements to testify that they believed the statements were true because those were impermissible comments on the ultimate issue of Defendant's guilt. This plain error had a decisive impact on the verdict because Defendant could not be found guilty unless the jury not only believed he made the statements, but also that they were true.

Opinion by: Colleen Dolan, P.J.

Robert M. Clayton III, J., and Kelly C. Broniec, J., concur.

Attorney for Appellant: Stephen Patrick Ranz

Attorney for Respondent: Garrick Aplin

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