MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

Respondent

v.

DANZEL REESE,

Appellant

DOCKET NUMBER WD83362

DATE: AUGUST 3, 2021

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Joel P. Fahnestock, Judge

Appellate Judges:

Division One
Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, Thomas N. Chapman, Judge

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Attorneys:

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Counsel for Respondent

Attorneys:

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Counsel for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
DANZEL REESE, Appellant.

WD83362 **Jackson County**

Before Division One Judges: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, and Thomas N. Chapman, Judge

Danzel Reese appeals from a judgment entered upon a jury verdict convicting him of involuntary manslaughter in the first degree under Section 565.024,[1] and robbery in the first degree under Section 569.020. Reese contends the circuit court, 1) plainly erred in overruling Reese's motion to strike Venireperson #33, arguing Venireperson #33 was a biased juror, 2) erred in failing to order further jury deliberations and accepting the jury's verdict and sentencing Reese for robbery in the first degree, arguing the jury issued inconsistent verdicts, 3) erred in accepting the jury's verdict and sentencing Reese for robbery in the first degree in violation of Reese's right to be free from double jeopardy, 4) plainly erred in failing to *sua sponte* give a limiting instruction or declare a mistrial during the State's closing argument, arguing the State injected and argued facts not in evidence, and 5) plainly erred in submitting an erroneous verdict directing instruction for involuntary manslaughter in the first degree.

AFFIRMED

Division One holds:

1) Reese fails to make a threshold showing that the circuit court plainly erred in overruling Reese's motion to strike Venireperson #33. Reese fails to acknowledge on appeal Venireperson #33's unequivocal indication during *voir dire* that her prior experiences would not impair her ability to be fair in Reese's case, and that she could be fair and impartial and put aside those prior experiences, and further fails to explain how the statements Venireperson #33 actually did make during *voir dire* negated Venireperson #33's indication that she could remain fair and impartial despite her prior experiences.

2) Reese fails to make a threshold showing that the circuit court plainly erred in failing to order further jury deliberations and accepting the jury's verdict of robbery in the first degree. He fails to show that the jury's guilty verdict on the charge of robbery in the first

[1]All statutory references are to the Revised Statutes of Missouri, as updated through 2010, unless otherwise noted.

degree, and not guilty verdict on the charge of felony murder in the second degree, were inconsistent necessitating *sua sponte* intervention by the court.

3) Reese fails to make a threshold showing that the circuit court plainly erred in accepting the jury's verdict and sentencing Reese for robbery in the first degree. Reese fails to show that he was exposed to double jeopardy and that a manifest injustice occurred in his case as his claim of double jeopardy hinges on the inaccurate premise that he was acquitted of second-degree felony murder.

4) Reese fails to make a threshold showing that the circuit court plainly erred in failing to *sua sponte* give a limiting instruction or declare a mistrial during the State's closing argument. Reese fails to show that the prosecutor's statements in closing were not reasonable inferences drawn from the evidence and, even if they were not, the statements had a decisive effect on the outcome of the trial.

5) The circuit court did not plainly err in submitting the verdict directing instruction for involuntary manslaughter in the first degree. Reese fails to show manifest injustice resulted from the instruction as there was no danger of the jury improperly convicting Reese of involuntary manslaughter in the first degree based on a mens rea consistent with a lesser offense.

Opinion by: Anthony Rex Gabbert, Judge Date: August 3, 2021

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