OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION TWO

STATE OF MISSOURI,	)	No. ED108366
	)	
Respondent,	)	
	)	Appeal from the Circuit Court
	)	of St. Charles County
vs.	)	Cause No. 1611-CR04878-01
	)	
DANIEL B. HALLMARK,	)	Honorable Jon A. Cunningham
	)	
Appellant.	)	Filed: September 7, 2021

Appellant Daniel B. Hallmark appeals his conviction, following a jury trial, for 11 counts of statutory sodomy second degree, one count of attempted enticement of a child, one count of sexual misconduct second degree and one count of furnishing pornography to a minor. In his first point, Appellant appeals the trial court's judgment denying his "Motion to Dismiss Improperly Joined Counts or For Severance of Offenses" (motion to sever). Appellant concedes on appeal that joinder was proper but argues he suffered substantial prejudice as a result of the trial court's refusal to sever the charges. In his second point, Appellant claims the trial court plainly erred in submitting Instruction No. 32 to the jury. Specifically, Appellant alleges there was insufficient evidence for the jury to find Appellant "had [victim C.R.] spend the night" for the purpose of engaging in sexual activity with C.R.

AFFIRMED.

Division Two Holds: The trial court did not err with respect to either point. Appellant's generalized allegations in his motion to sever were insufficient to make a particularized showing of substantial prejudice. Moreover, the record indicates the evidence presented at trial was distinct and uncomplicated, and the jury was properly instructed to return separate verdicts for each offense charged. Thus, there was no prejudice and the trial court did not abuse its discretion. Finally, the trial court did not plainly err when submitting Instruction No. 32 because the jury instruction was supported by substantial evidence and the reasonable inferences. Affirmed.

Opinion by: Thom C. Clark, J. Sherri B. Sullivan, P.J., and Lisa P. Page, J., concur.

Attorney for Appellant: James C. Egan

Attorney for Respondent: Daniel N. McPherson

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.