MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, RESPONDENT,
v.
BRENT ROBERTS, APPELLANT.

DOCKET NUMBER WD87346

DATE: MAY 27, 2025

Appeal From:

Henry County Circuit Court
The Honorable Michael Brandon Baker, Judge

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge, and W. Douglas Thomson, Judge

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Attorneys:

Daniel Dysart, Osceola, MO, for respondent.

William Swift, Columbia, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, RESPONDENT,
v.
BRENT ROBERTS, APPELLANT.

WD87346 Henry County

Before Division Two Judges: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge, and W. Douglas Thomson, Judge

Brent Roberts appeals his conviction of fourth-degree domestic assault and alleges plain error in the trial court's refusal to submit an instruction for self-defense in light of evidence that he was struck first by the victim. Roberts did not meet his burden of injecting self-defense as substantial evidence did not support each of the elements required for a self-defense instruction.

AFFIRMED.

Division Two holds:

1. To have been entitled to a self-defense instruction, substantial evidence had to establish that: (1) Roberts was not the initial aggressor; (2) Roberts had reasonable grounds to believe that he was faced with the imminent use of unlawful force by Victim; (3) Roberts did not use more force than was reasonably necessary, and if deadly force was used, Roberts had reasonable grounds to believe that it was necessary to protect himself from death, physical injury, or a forcible felony; and (4) Roberts had no duty to retreat.

2. The jury could have relied on testimony to find that Roberts was not the initial aggressor. However, that evidence, standing alone, was insufficient to require the submission of a self-defense instruction.

3. Substantial evidence also had to establish that when Roberts responded to Victim's act of striking him by choking her, he had reasonable grounds to believe that he was faced with Victim's imminent use of unlawful force. Our review of the record reveals no evidence from which a jury could conclude that even if Victim first struck Roberts, the circumstances gave Roberts reasonable grounds to believe that Victim's use of additional unlawful force against him was imminent.

4. Substantial evidence also had to establish that when Roberts responded to Victim's act of striking him by choking her, he had reasonable grounds to believe that his use of deadly force was necessary to protect himself from death, physical injury, or a forcible felony. There was no evidence Victim was threatening the imminent use of additional force that could cause Roberts' death or physical injury, or that would qualify as a forcible felony.

Opinion by: Cynthia L. Martin, Presiding Judge May 27, 2025

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