SUPREME COURT OF MISSOURI
en banc

STATE OF MISSOURI,	)	
	)	
Respondent,	)	
	)	
v.	)	No. SC101373
	)	
JAMES GUTHRIE,	)	*Opinion issued May 19, 2026*
	)	
Appellant	)	

APPEAL FROM THE CIRCUIT COURT OF MISSISSIPPI COUNTY
The Honorable R. Zachary Horack, Judge

James Guthrie was tried and found guilty of two counts of first-degree statutory rape and one count of fourth-degree child molestation against Victim 1; and one count of first-degree statutory rape and one count of first-degree sodomy against Victim 2. Guthrie claims there was insufficient evidence to support his statutory rape conviction against Victim 2. Because this conviction is supported by sufficient evidence, the judgment is affirmed.

Factual and Procedural Background

The State charged Guthrie with five offenses after he sexually assaulted Victim 1 and Victim 2. Relevant to this appeal, Count IV charged Guthrie with first-degree statutory

rape alleging Guthrie "knowingly had sexual intercourse with [Victim 2], a child less than fourteen years old."

At trial, conflicting evidence was presented regarding Victim 2's age when the charged conduct occurred. On direct examination, Victim 2 testified she was born in late May 2003. Victim 2 further testified:

> Q. Okay. Was there a time that something happened with James Guthrie that you didn't want to happen?
>
> A. Yes.
>
> Q. Can you tell me about when that was?
>
> A. It was in 2017.
>
> Q. Okay. Would it have been when you were 14?
>
> A. Yes.
>
> Q. How do you know or how do you remember that is when it was?
>
> A. Preteens.
>
> Q. Okay?
>
> A. Going through school, making friends, was getting to go to birthday parties and swimming pool parties and slumber parties.

On cross-examination, Victim 2 testified:

> Q. And do you remember what time of year it was?
>
> A. The year? 2017.
>
> Q. Do you remember which month of the year --
>
> A. No.
>
> Q. -- this happened?

A. No.

Q. Do you know if it was cold outside or hot outside?

A. It wasn't hot. But it wasn't cold so couldn't say kind of more like a cool, breezy-type of weather.

The jury found Guthrie guilty on all counts. Guthrie appealed.[1] This Court granted transfer after an opinion by the court of appeals and has jurisdiction under article V, section 10 of the Missouri Constitution.

Standard of Review

In his sole point on appeal, Guthrie claims the State failed to present sufficient evidence, absent speculation, that Victim 2 was less than the age of 14 when the statutory rape offense occurred.

"When considering the sufficiency of the evidence on appeal, this Court must determine whether sufficient evidence permits a reasonable juror to find guilt beyond a reasonable doubt." *State v. Tate*, 708 S.W.3d 483, 488 (Mo. banc 2025) (internal quotation omitted). "This Court accepts as true all evidence tending to prove guilt together with all reasonable inferences that support the verdict, and ignores all contrary evidence[] and inferences." *State v. Eggleston*, 728 S.W.3d 432, 436 (Mo. banc 2026) (internal quotations omitted). In reviewing whether sufficient evidence supports a criminal conviction, "[t]he Court does not act as a 'super juror' with veto powers, but gives great deference to the trier of fact." *Id*. (internal quotation omitted). This Court, however, cannot "supply missing

[1] Guthrie does not challenge on appeal his convictions for Counts I, II, III, and V.

evidence, or give the [s]tate the benefit of unreasonable, speculative or forced inferences." *Id.* (internal quotation omitted).

Analysis

Section 566.032.1, RSMo 2016, provides "a person commits the offense of statutory rape in the first degree if he or she has sexual intercourse with another person who is less than fourteen years of age." Guthrie argues the record does not contain a logical basis to conclude the offense occurred before Victim 2 turned 14 years old. Specifically, Guthrie contends inferring the offense occurred in the spring before Victim 2's 14th birthday from her testimony the weather was a "cool, breezy-type" rests on improper speculation.

At trial, the State established Victim 2 turned 14 years old on May 30, 2017. Although Victim 2 testified the charged conduct occurred when she was 14 years old, she also testified she was a preteen when Guthrie had sexual intercourse with her.[2] Because Victim 2's testimony that she was 14 when Guthrie had sexual intercourse with her is contrary to the verdict, this Court must disregard it. *Eggleston*, 728 S.W.3d at 436.[3]

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[2] The equally valid inferences rule states "[when] two equally valid inferences can be drawn from the same evidence, the evidence does not establish guilt beyond a reasonable doubt." *State v. Chaney*, 967 S.W.2d 47, 54 (Mo. banc 1998) (alteration in original) (internal quotation omitted). In *Chaney*, this Court held "[t]he equally valid inferences rule was effectively abolished by *State v. Grim*[, 854 S.W.2d 403, 413-14 (Mo. banc 1993),]" because the "rule conflicts with and renders meaningless the requirement that the appellate court presume that the trier of fact drew all reasonable inferences in favor of the verdict." 967 S.W.2d at 54.

[3] Guthrie relies on *State v. Bowman* for the proposition this Court must disregard all evidence and inferences contrary to the verdict "unless they are such a natural and logical extension of the evidence that a reasonable juror would be unable to disregard them." 337 S.W.3d 679, 688 (Mo. banc 2011) (internal quotation omitted). Guthrie argues Victim 2's testimony she was 14 years old when the charged conduct occurred cannot be disregarded because it was "elicited from a State's witness, the State never sought to correct

Instead, this Court must accept as true Victim 2's testimony that the charged conduct occurred when she was a preteen. *Id*. The dictionary definition of "pre-" reads: "earlier than: prior to: before," and the definition of "teen" reads: "[-*teen* (as in *thirteen*)][.]" Pre, *WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY* (2002); Teen, *WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY* (2002). "Preteen," therefore, means prior to 13. From this evidence, a juror could have reasonably concluded the charged conduct occurred when Victim 2 was less than 14 years old.[4] It is well established this Court cannot act as a "super juror" and overrule the jury's verdict after deciding disputed facts. *Eggleston*, 728 S.W.3d at 439.

This Court acknowledges the second amended information and verdict-directing instruction for Count IV state the charged conduct occurred between January 1, 2017 and May 1, 2017. Because Victim 2 was born in 2003, she was not a preteen during this time period. Importantly, Guthrie does not make a due process challenge that the second amended information failed to give him adequate notice or implicates future double

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or contradict it, never argued the witness was mistaken about when these acts occurred, and there is no conceivable motive for the alleged victim to lie when this evidence could only help Mr. Guthrie." The fact the State elicited uncontroverted testimony that Victim 2 was 14 years old when the charged conduct occurred has no bearing on the jury's right to disregard it and believe Victim 2's additional testimony that Guthrie had sexual intercourse with her when she was a preteen. *See State v. Nash*, 339 S.W.3d 500, 509 (Mo. banc 2011) ("[T]he fact-finder may believe all, some, or none of the testimony of a witness when considered with the facts, circumstances and other testimony in the case." (internal quotation omitted)).

[4] Because Victim 2 testified she was a preteen when the charged conduct occurred, there is no need for this Court to improperly speculate as to what season her "cool, breezy type of weather" testimony referred.

jeopardy rights in the event he was acquitted.[5] He also did not object to the verdict-directing instruction at trial claiming it was not supported by the evidence, nor does he request plain error review of that verdict-directing instruction on appeal.[6] Accordingly, this Court is limited to determining "whether there is sufficient evidence to support the charged crime, based on the elements of the crime as set forth by statute and common law and the evidence adduced at trial." *Id*. at 436 (internal quotation omitted).[7]

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[5] The dissent relies on *State v. Miller*, which was not cited to or relied on by Guthrie, to conclude his conviction should be reversed because the State failed to prove the alleged conduct occurred within the date range charged in the information. 372 S.W.3d 455 (Mo. banc 2012). In *Miller*, the information charged Miller with committing crimes between December 3, 2004, and December 3, 2005. *Id.* at 463. The evidence, however, demonstrated Miller sexually assaulted the victim between December 3, 1998, and December 3, 1999. *Id.* On appeal, Miller argued the State failed to prove he engaged in first-degree statutory sodomy and deviate sexual assault "because there was no evidence that he committed these crimes consistent with the dates alleged in both the information setting forth the charges and the jury instructions." *Id.* In reversing these two convictions, this Court noted "the State should not be permitted to secure a conviction with respect to specific conduct occurring during a broadly stated yet substantially different period of time from that stated in the information and instruction" because it "would not provide the defendant with adequate notice of the evidence that the State intends to present at trial." *Id.* at 465. This Court further noted if Miller's convictions were allowed to stand, "nothing would preclude the State, in the future, from charging Miller with separate first-degree statutory sodomy and deviate sexual assault charges arising out of the same offense[.]" *Id.* at 468. *Miller* is distinguishable. Notably, Guthrie simply asserts there was insufficient evidence Victim 2 was less than the age of 14 when the charged offense occurred. Moreover, unlike the six-year gap between the conduct and the dates in the information in *Miller*, here, there was only an approximate two-year gap between when Victim 2 would have been a preteen (12 years old) and the dates in the second amended information.

[6] "Sufficiency of evidence review … does not rest on how the jury was instructed." *State v. Jackson-Bey*, 690 S.W.3d 181, 186 (Mo. banc 2024) (internal quotations omitted).

[7] "Time is not essential in child sexual abuse cases because it can be impossible to ascertain specific dates of the sexual abuse." *Miller*, 372 S.W.3d at 464. Although time is not an essential element of the charged crime, "the indictment or information must allege the time of the alleged offense with reasonable particularity; that is, it must be specific enough to ensure notice to the defendant, assurance against double jeopardy, and reliability of a unanimous verdict." *Id.* at 464-65 (internal quotation omitted).

Given Victim 2 testified she was a preteen at the time of the charged conduct, this Court holds the State presented sufficient evidence from which a reasonable juror could conclude beyond a reasonable doubt that Guthrie had sexual intercourse with Victim 2 when she was less than 14 years old.

Conclusion

The State presented sufficient evidence to support Guthrie's conviction for first-degree statutory rape against Victim 2. The circuit court's judgment is affirmed.[8]

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Zel M. Fischer, Judge

Powell, C.J., Wilson, Broniec, Gooch, and Russell, JJ., concur;
Ransom, J., dissents in separate opinion filed.

[8] Had Guthrie objected to the verdict-directing instruction on the basis there was no evidence admitted at trial to support the instruction or asked this Court to review this instructional claim for plain error, the dissenting opinion's analysis of this claim may have been appropriate. *See Miller*, 372 S.W.3d at 470. Of course, under that circumstance, double jeopardy would not apply to a future charge that Guthrie committed the crime of statutory rape against Victim 2 for acts that occurred when she was a preteen. The Court acknowledges there are often difficult strategic decisions defense counsel must make.

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DISSENTING OPINION

I respectfully dissent. The state charged James Guthrie in Count IV with first-degree statutory rape "in that ***between January 1, 2017 and May 1, 2017***, … [Guthrie] knowingly had sexual intercourse with [Victim 2], a child less than fourteen years old." (Emphasis added). To find Guthrie guilty of Count IV, the jury was instructed it must find the alleged conduct occurred within the same date range as charged. Victim 2 turned 14 on May 30, 2017. Therefore, it is undisputed Victim 2 was 13 years old during the charged period. There was no testimony, however, to support a finding that Victim 2 was 13 years old at the time of the incident. Yet the principal opinion holds the state met its burden of proof by eliciting testimony from Victim 2 that the offense occurred when she was in her "preteens," meaning when she was 12 years old or younger. I am not

convinced the state should be permitted to satisfy its burden in this manner. I would remand for a new trial on the lesser offense of second-degree statutory rape.[1]

This Court has recognized it can be difficult for the state to allege and prove precisely when the criminal conduct occurred in child sex abuse cases. *State v. Miller*, 372 S.W.3d 455, 465 (Mo. banc 2012). As a result, "[p]rior case law in Missouri indicates that the state is not confined in its evidence to the precise date stated in the information, but may prove the offense to have been committed on any day before the date of the information and within the period of limitation." *Id.* (quotations omitted).

To ensure adequate notice to the defendant of the evidence the state intends to present at trial and to assuage double jeopardy concerns, however, this Court outlined a caveat to that rule in *Miller*:

> [W]hen the [s]tate chooses to file an information and submit parallel jury instructions that purport to charge the defendant with specific conduct ***during a specific period of time***, the [s]tate should not be permitted to secure a conviction with respect to specific conduct occurring during a broadly stated yet substantially different period of time from that stated in the information and instruction.

Id. (emphasis added).

In *Miller*, the defendant succeeded on a challenge similar to that advanced by Guthrie – that the evidence was not sufficient to support his conviction for first-degree

[1] Unlike first-degree statutory rape, second-degree statutory rape includes the element that the defendant be 21 years of age or older. § 566.034.1, RSMo 2016. Because the issue of Guthrie's age was not submitted to the jury, remand for a new trial is appropriate. *State v. O'Brien*, 857 S.W.2d 212, 220 (Mo. banc 1993).

statutory sodomy of a victim younger than 14 years old.[2] *Id.* at 462-63. As in the instant case, the information alleged, and the jury instructions required a finding, that the charged conduct occurred within a specific date range – between December 3, 2004, and December 3, 2005. *Id.* at 463. No evidence was adduced, however, to establish the offense occurred within that date range. *Id.* Rather, evidence was presented that the conduct occurred between December 3, 1998, and December 3, 1999, when the victim was seven years old. *Id.*

The state argued it did not need to prove the conduct occurred during the alleged date frame and the evidence showing the conduct occurred when the victim was seven sufficiently proved the victim was younger than the age of 14 years at the time of the conduct. *Id.* at 464. This Court rejected that argument, explaining a defendant's notice and double jeopardy rights are implicated when the state includes a specific time period in the information and mirroring instructions. *Id.* at 468. The Court ultimately held there was insufficient evidence Miller committed the charged offense during the charged period. *Id.*

Here, based on the information alleged and the verdict-directing instruction for Count IV the jury was required to find that, ***between January 1, 2017, and May 1, 2017***, Guthrie had sexual intercourse with Victim 2, a person under the age of 14 years. In the

[2] The Court specifically noted, "On appeal, Miller does not challenge the sufficiency of the information. His challenge on appeal is solely that the evidence was insufficient to find him guilty of the crime charged beyond a reasonable doubt." *Miller*, 372 S.W.3d at 465 n.3.

light most favorable to the judgment, the only evidence that could possibly show when the offense occurred is Victim 2's testimony that she was a "preteen."[3] Given the principal opinion's definition of the word, the offense could have occurred when Victim 2 was ***any*** age ***under*** 13. This is a broad time frame that substantially differs from the state's allegation in the information that the conduct occurred during a four-month period when Victim 2 was 13.

The state easily could have limited its information to state the offense occurred on or before January 1, 2017, in which case it would not have been confined to that precise date and could have proved the offense to have been committed on any day before January 1, 2017, so long as it was within the period of limitation. *Id.* at 465. Alternatively, the state could have significantly broadened the date range alleged in the information to include the relevant preteen years. *See Miller*, 372 S.W.3d at 466 (collecting cases in which Missouri appellate courts have upheld periods of time ranging anywhere from a 24-day period to a span of more than four years). Finally, the state could have amended the information to conform with the evidence presented at trial.

[3] The state argues Victim 2's testimony that the offense occurred in 2017 when it was "a cool, breezy-type of weather" supports a reasonable inference that the offense occurred between January 1 and May 1, 2017. I disagree. In Missouri, the weather is often unpredictable; Missourians may experience cool and breezy weather in any season. It would be entirely speculative to assume that, simply because the offense occurred when the weather was cool and breezy, the offense necessarily occurred before May 1, 2017. "Conjecture based on the possibility that a thing could have happened or an idea or a notion founded on the probability that a thing may have occurred, but without proof that it did occur, is not a permissible inference but rather a supposition." *State v. Peters*, 729 S.W.3d 243, 248 (Mo. banc 2026) (alterations and quotations omitted).

Rule 23.08. The state did none of these things. The state is properly granted tremendous leeway in charging and proving when child abuse offenses occur. Even so, the state must still "prove the elements of the offense it charged, not the one it might have charged." *Id.* at 467 (quoting *State v. Payne*, 250 S.W.3d 815, 818 n.3 (Mo. App. 2008)). I do not believe the state satisfied its burden in this case.[4] Reversal is required under *Miller*.

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ROBIN RANSOM, JUDGE

[4] Moreover, I find it worth noting the peculiar nature of this case. As mentioned, the state chose to allege in the information that the conduct occurred in a four-month period when Victim 2 was 13 years old. Confusingly, ***the state*** then adduced significant evidence that Victim 2 was actually 14 years old when the offense occurred. Immediately before uttering the word "preteens," Victim 2 testified she was 14 years old at the time of the offense in response to a ***leading*** question from the state. Further, the state's expert witness, a forensic nurse examiner who examined Victim 2 after the incident, testified Victim 2 was 14 years old when the incident occurred. This was corroborated in the expert's report, which was admitted into evidence. I understand this evidence must be ignored under the proper standard of review. But I find the principal opinion's decision to hang its hat on one word to find the state met its burden in showing Victim 2 was younger than 14 at the time of the offense troubling in the context of this case.