Missouri Court of Appeals
Southern District

In Division

STATE OF MISSOURI, Plaintiff-Respondent, v. ELIJAH N. WARD, Defendant-Appellant.	Case Number SD38988 **Filed: July 17, 2026**

APPEAL FROM THE CIRCUIT COURT OF NEW MADRID COUNTY

Honorable Joshua D. Underwood, Judge

AFFIRMED

Elijah N. Ward ("Ward") appeals from a judgment ("Judgment") of the Circuit Court of New Madrid County, Missouri ("trial court"), following a jury trial, convicting him of one count of first-degree assault, one count of armed criminal action, and one count of first-degree property damage.[1] In one point on appeal, Ward argues that the trial court plainly erred when it overruled Ward's objection to the State's rebuttal closing

[1] *See* sections 565.050; 571.015, RSMo Cum.Supp. 2020; and 569.100. Unless otherwise indicated, all references to statutes are to RSMo 2016, including all applicable statutory changes effective January 1, 2017. Ward was also charged with unlawful use of a weapon, a second count of armed criminal action, and tampering with physical evidence; however, the jury found Ward not guilty on those three counts.

argument that a not-guilty verdict in this case would be telling Victim that he deserved what happened to him. Because our facial review of the record discloses no basis for concluding that a manifest injustice occurred, we decline plain error review and affirm the Judgment of the trial court.

Factual Background and Procedural History

Ward does not challenge the sufficiency of the evidence to support his convictions. Ward had been in a relationship with H.B. ("Daughter"), who is Victim's daughter. The events leading to the charges against Ward occurred on or about May 16, 2021. Ward and Daughter had broken up two days prior, on or about May 14, 2021. The situation on May 14th became heated when Ward showed up at Daughter's house, where Victim also lived, following the breakup to pick up his stuff. While he was at Daughter's and Victim's home, Ward was angry, told Victim that Victim had lied to him, threw a phone he had borrowed at the house, and threatened to fight Victim. Daughter was able to get Ward's mother to come to the house and calm Ward down and get him to leave. After this incident, Ward was not allowed at Daughter's and Victim's home.

Two days later, on May 16, 2021, Ward returned to Victim's and Daughter's home and began knocking loudly at the door. Victim did not know who was at the door, so he answered it with his gun "tucked … in the small of [his] back." Victim and Ward began arguing, as Victim told Ward to leave and Ward insisted on speaking to Daughter. Around that time, Daughter's mother ("Mother") and Daughter came to the door, went outside, and told Ward to leave. Victim told Mother to call the police, which she did. When Daughter called Ward's mother again to help, Ward "snatched" the phone out of

her hand and broke it on the concrete as soon as Daughter put it on speakerphone. Daughter then pushed Ward. Victim had stepped in between the two, and Ward punched Victim in the face.

Ward attempted to flee after punching Victim, but Victim tackled him and they both fell to the ground. Victim's gun came out of his pants in the process and Ward grabbed the gun. When Ward tried running away, Daughter grabbed his shirt because she feared Ward would shoot Victim. Ward dragged her around the front yard until she lost her grip on his shirt. Once Ward broke free from her grasp, Daughter and Victim ran towards the house as Ward came around the corner of the house and started shooting. Mother was in between the truck and the garage at this time and stood in shock while Ward shot at Daughter and Victim. Victim was trying to push Daughter inside the house when Ward shot Victim's left leg, left hip, right groin, and back left shoulder. The police found Victim sitting in the doorway of his home when they arrived. They found Ward about one block away from Victim's home hiding behind a building. Ward had discarded the gun in an empty lot across the street from Victim's home.

Ward claimed at trial that he had acted in self-defense. While he acknowledged that he was the "initial aggressor in this fight[,]" Ward stated that he had withdrawn from the fight when he ran away after Daughter's phone was broken and Ward had punched Victim. Ward testified that Victim ran after him and caught him, at which point Ward started defending himself against Victim by punching him a second time, and that is when Victim's gun fell out. Ward claimed he grabbed the gun, was grabbed by Daughter, and was able to get free. Once he broke free from Daughter's grasp, Ward testified that

he started shooting because he was afraid "somebody would grab [him]" or Victim would come back for him.

The jury found Ward guilty of first-degree assault, armed criminal action, and first-degree property damage. Ward appeals.

Analysis

In his sole point on appeal, Ward argues:

> The trial court plainly erred in overruling the defense's objection to the State's rebuttal argument that, when self-defense is "used correctly," it means the victim "deserved their punishment" and that a not guilty verdict would tell [Victim] he "deserved what happened," because it violated [Ward's] rights to due process of law and a fair trial, … in that the argument misstated Missouri self-defense law and the court's instructions, improperly appealed to the passions and prejudices of the jury, and diluted the State's burden to prove beyond a reasonable doubt that [] Ward did not act in lawful self-defense, because the jury's task was to decide whether the State disproved self-defense under the court's instructions and not whether [Victim] morally "deserved" to be shot.

We disagree.

Standard of Review

Ward acknowledges that his claim of error is not preserved for review because it was not included in his motion for a new trial. *See* ***State v. Green***, 307 S.W.3d 197, 201 (Mo. App. S.D. 2010) ("A claimed error that was not timely objected to at trial has not been preserved."). He nonetheless requests that this Court review his claim for plain error.

> "Generally, this Court does not review unpreserved claims of error." *State v. Brandolese*, 601 S.W.3d 519, 525 (Mo. banc 2020). "Rule 30.20 alters the general rule by giving appellate courts discretion to review 'plain errors affecting substantial rights ... in the discretion of the court ... when

> the court finds that manifest injustice or miscarriage of justice has resulted therefrom.'" *Id.* at 526 (quoting Rule 30.20).

State v. Nichols, 709 S.W.3d 372, 376-77 (Mo. App. W.D. 2025) (alterations in original).

> Plain error review is appropriate only when the record discloses a facial basis for concluding that "evident, obvious and clear error" has occurred. *State v. Garrison*, 276 S.W.3d 372, 374-75 (Mo. App. S.D.[]2009). If we determine after a facial review that plain error may have occurred, we review it to determine if, as a result of that error, [the defendant] suffered a manifest injustice. *Id.*

Green, 307 S.W.3d at 201. Here, our facial review of the record discloses no basis for concluding that a manifest injustice occurred, and we decline plain error review.

In response to Ward's closing argument that he had shot Victim in self-defense, the prosecutor argued in rebuttal closing argument as follows:

> Self[-]defense is one of our greatest rights, don't get me wrong. I'm a prosecutor and understand, and I'm also a family man. The right to defend yourself and your family from an attacker is one of the best defenses that we had. When [self-defense] is used correctly, it gives someone the legal right to kill another human being, because that other human being deserved their punishment. A not guilty verdict in this case will be telling [Victim] that that [sic] he deserved what happened to him.

Ward argues that plain error occurred because the State's argument "misstated Missouri self-defense law and the court's instructions, improperly appealed to the passions and prejudices of the jury, and diluted the State's burden to prove beyond a reasonable doubt that [Ward] did not act in lawful self-defense[.]"

We first note that, to succeed on his claim, Ward must show more than prejudice. He "must show that his rights will suffer so substantially from the error that a miscarriage of justice or manifest injustice will occur if the error is left uncorrected." ***State v. Brown***,

733 S.W.3d 488, 500 (Mo. App. W.D. 2026). It is with this lens that we conduct our facial review of the evidence adduced at trial to determine whether a manifest injustice occurred. We note that Ward does not challenge the sufficiency of the evidence against him, and the evidence against him at trial was substantial. Thus, we find no indication that, absent the State's comment during closing argument, Ward would not have been convicted.

Ward did not dispute that he was the initial aggressor in the fight but claimed that he ran away and Victim ran after him in "a tackle style position." Ward testified that he feared for his life and shot Victim in self-defense. Contrary to Ward's testimony, Victim, Mother, and Daughter all testified that Victim was trying to get away from Ward and flee inside the house when Ward came back around the house and started shooting at him. The State also presented evidence at trial that officers found Victim sitting in the doorway to his house with blood on the front door – an indication that the screen door was open at the time of the shooting and Victim had been trying to get inside.

Furthermore, as the State's argument points out, our Court recently addressed this very issue in ***State v. Guest***, 692 S.W.3d 444 (Mo. App. S.D. 2024), and found that the same comment by the prosecutor does not constitute an abuse of discretion, much less a manifest injustice. In ***Guest***, the defendant claimed in closing argument that he had acted in self-defense of his brother and himself when he shot the victim. ***Id.*** at 454. The State responded to the defendant's self-defense theory in rebuttal argument by stating as follows:

> A not guilty verdict would be telling [Victim's] family ... Would be telling them that [Victim] deserved to [die] for what he did that night. And what did he do? When someone was coming at him with a gun, he went and got his gun. Which he has the right to do.

Id. (alternation in original). ***Guest*** held that the prosecutor's statement, when read in context, was designed to "explain the law on self-defense" to the jury. ***Id. Guest*** held that the prosecutor was explaining to the jury why the defendant's claim of self-defense was not justified since the defendant was the initial aggressor and the victim had the right to defend himself with a gun. ***Id.***

Similarly, here, when read in context, the State's comment was meant to respond to Ward's claim of self-defense and explain self-defense to the jury – not to inflame the passions of the jury or misstate the law on self-defense. *See* ***id.*** (quoting ***State v. Tate***, 561 S.W.3d 483, 491 (Mo. App. E.D. 2018) ("The State's closing argument cannot seek to 'inflame the passions or prejudices of the jury against a defendant.'").

Because no manifest injustice appears from the face of the record, we decline to exercise our discretion for plain error review. The judgment of the trial court is affirmed.

JENNIFER R. GROWCOCK, J. – OPINION AUTHOR

BECKY J. WEST, C.J. – CONCURS

JOSEPH L. HENSLEY, J. – CONCURS