MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
GERALD L. SMITH, JR., Appellant.

DOCKET NUMBER WD87798

DATE: JULY 28, 2026

Appeal From:

Jackson County Circuit Court
The Honorable Charles H. McKenzie, Judge

Appellate Judges:

Division One: Gary D. Witt, Presiding Judge, Mark D. Pfeiffer, Judge, and Thomas N. Chapman, Judge

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Attorneys:

Abigail Mehard, Jefferson City, MO, for respondent.

Molly Hastings, Shajiah Jaffri, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
GERALD L. SMITH, JR., Appellant.

WD87798 Jackson County

Before Division One Judges: Gary D. Witt, Presiding Judge, Mark D. Pfeiffer, Judge, and Thomas N. Chapman, Judge

Gerald L. Smith, Jr. was convicted after a bench trial of one count of first-degree statutory sodomy, one count of first-degree assault, and one count of first-degree endangering the welfare of a child. Smith was sentenced to twenty years in the Department of Corrections on Count 1, fifteen years on Count 2, and seven years on Count 3. The sentences for Counts 1 and 2 were ordered to run consecutively while the sentence on Count 3 was ordered to run concurrently to the sentences for Counts 1 and 2, for a total sentence of thirty-five years. Smith appeals, raising two points of error.

Point I alleges that the trial court erred when it entered a conviction for statutory sodomy in the first degree because there was insufficient evidence to support beyond a reasonable doubt that the offense occurred on or about September 13, 2019, the charged date of the offense. Point II alleges that the trial court plainly erred when it ordered Smith's sentences on Counts 1 and 2 to run consecutively because it was done under "the materially false belief" that the trial court was required to run the sentences consecutively as a matter of law pursuant to the consecutive sentencing directive in section 558.026, RSMo.

AFFIRMED.

Division One holds:

1. The evidence at trial was sufficient for a rational fact finder to reasonably find that the offence occurred on the charged date.

2. Based on Smith's conviction for first-degree statutory sodomy and first-degree assault, the trial court relied on section 558.026 to require consecutive sentences for these counts. There was sufficient evidence that the sexual offense and the first-degree assault occurred at the same time on the same day. There was no error, plain or otherwise.

Opinion by: Gary D. Witt, Presiding Judge July 28, 2026

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