

**MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY**

STATE OF MISSOURI,)	No. ED101974
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable Michael F. Stelzer
PHELTON JOHNSON,)	
)	
Appellant.)	FILED: January 12, 2016

Phelton Johnson (“Johnson”) appeals the trial court’s judgment entered following a jury trial. The jury convicted Johnson on five counts of second-degree statutory sodomy and one count of second-degree child molestation. In this appeal, Johnson challenges the sufficiency of the evidence supporting his conviction on Count II for second-degree statutory sodomy. Johnson further challenges the trial court’s rulings admitting certain photographs into evidence and prohibiting him from cross-examining Victim regarding a prior rape.

AFFIRMED IN PART AND REVERSED IN PART.

DIVISION FOUR HOLDS: The trial court erred in denying Johnson’s motion for acquittal on Count II because the State failed to present sufficient evidence from which the jury reasonably could infer that Johnson’s hand touched Victim’s genitals. Because Johnson did not preserve his objection to the admission of the complained-of photographs and we find no manifest injustice resulting from the admission of the photographs into evidence, we decline to exercise plain-error review. Lastly, because Johnson did not comply with the written-motion requirement of the rape shield statute, the trial court properly limited cross-examination of the victim about a prior rape

Opinion by: Kurt S. Odenwald, Judge Sherri B. Sullivan, P.J., and Lisa S. Van Amburg, C.J., concur.

Attorney for Appellant: Gwenda Renee Robinson

Attorney for Respondent: Chris Koster

<p>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.</p>
