

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

STATE OF MISSOURI,)	No. ED102104
)	
Respondent,)	Appeal from the Circuit Court of
)	the City of St. Louis
vs.)	1222-CR02255-01
)	
ANTONIO D. CLARK,)	Honorable Julian L. Bush
)	
Appellant.)	Filed: April 19, 2016

Antonio D. Clark appeals his convictions following a bench trial in the Circuit Court of the City of St. Louis of two counts of forcible rape, two counts of forcible sodomy, two counts of first-degree robbery, and six counts of armed criminal action. Clark asserts two allegations of plain error: (1) that the trial court violated his right to be free from double jeopardy by convicting him of two counts of first-degree robbery and two related counts of armed criminal action, and (2) that the trial court erred because the sentence of “life (999) years” set forth in its written judgment for each of Clark’s two counts of forcible rape and two counts of forcible sodomy materially differed from the sentence the court orally pronounced on the record of life imprisonment for each count.

AFFIRMED IN PART, CAUSE REMANDED FOR CLERICAL CORRECTION.

DIVISION THREE HOLDS:

- 1) Because Clark does not point to any evidence in the record tending to show that the two thefts of which he was convicted occurred during the same instance of forcible stealing, Clark fails to make a facial showing justifying plain error review of the alleged double-jeopardy violation.
- 2) Because there was a material difference between the trial court’s two pronouncements of sentence, we remand to the trial court to correct the sentences in the written judgment to conform to the court’s oral pronouncement of life imprisonment for each count.

Opinion by: James M. Dowd, J.

Robert M. Clayton III, P.J., Lawrence E. Mooney, J. concur.

Attorney for Appellant: S. Kathleen Webber

Attorney for Respondent: Chris Koster, Christine K. Lesicko

<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>
