

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	ED102148
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
v.)	
)	
ANTONIO BURNS,)	Honorable John J. Riley
)	
Defendant/Appellant.)	Filed: December 15, 2015

Antonio Burns (Appellant) appeals from the judgment and sentence entered by the trial court after a bench trial finding him guilty of felony second-degree domestic assault (Count I), misdemeanor third-degree domestic assault (Count II), and felony resisting arrest (Count III).

AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.

Division Four Holds: Counts I and II do not subject Appellant to multiple punishments for the same offense in violation of the Double Jeopardy Clause. The victim’s statement to police immediately after and adjacent to the crime was admissible under the excited utterance exception to the hearsay rule, and Appellant’s right to confront the victim was not violated by admitting the victim’s account of the assaults via police testimony at trial. The trial court’s written sentence on Count III is erroneous because it conflicts with the court’s oral pronouncement of sentence, which prevails. On remand the court is instructed to correct the written sentence on Count III to conform to its oral pronouncement.

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

Attorney for Appellant: Gwenda Renee Robinson
Attorneys for Respondent: Chris Koster and Robert J. Bartholomew

<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>
