

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED102369
)	
vs.)	Appeal from the Circuit Court
)	of the City of St. Louis
DYANTHANY PROUDIE, Appellant.)	Hon. Rex M. Burlison
)	Filed: May 24, 2016

Dyanthany Proudie (“Defendant”) appeals from the judgment entered after a jury trial on his conviction for murder in the first degree.

AFFIRMED.

Division One holds:

A statement by one of the State’s witness that he had shot the victim was relevant evidence of an alternative perpetrator and would have been admissible because the witness was directly connected with the crime. But the statement was made out of court and, therefore, to be admissible for its truth, had to fit within an exception to the hearsay rule. This statement did not fit within the exception for declarations against penal interest because the declarant was available and did testify at trial. The statement may have been admissible as a prior inconsistent statement under Section 491.074, but because the statute was not raised at trial, we can only review the statement’s admissibility on this ground for plain error. We cannot say that the outcome of this trial would have been different had the statement been admitted because there was other overwhelming evidence of Defendant’s guilt.

There was no clear error in the trial court’s ruling on Defendant’s Batson challenges to two African-American women who were struck from the jury. Defendant did not demonstrate that the State’s race-neutral explanations—namely, concerns about employment history—were pretextual.

Opinion by: Robert G. Dowd, Jr., P.J.
Mary K. Hoff, J. and Roy L. Richter, J., concur.

Attorney for Appellant: Gregory N. Smith

Attorney for Respondent: Gregory L. Barnes

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