

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED102488
)	
vs.)	Appeal from the Circuit Court
)	of St. Louis County
TYRONE BENEDICT, Appellant.)	Hon. Richard C. Bresnahan
)	Filed: April 19, 2016

Tyrone Benedict (“Defendant”) appeals from the judgment entered after a jury trial on his convictions for murder in the first degree and arson in the first degree.

AFFIRMED.

Division Five holds:

The statement of a witness expressing merely a motive to commit the charged crime was not admissible as substantive evidence of an alternative perpetrator because there was no act directly connecting that person with the crime. It was, however, admissible to impeach him based on his bias and interest in the case. But the refusal to allow cross-examination on that statement was harmless error in this case because the witness’s testimony was not crucial to the conviction.

Statements Defendant made during a custodial interrogation with police after he requested an attorney were admissible because, after the officers ceased questioning him upon invocation of his right to counsel, Defendant voluntarily reinitiated the conversation. Police were not required to re-Mirandize him at that point, and subsequent conduct demonstrated that he knowingly and intelligently waived the right he had previously asserted.

The testimony elicited by the State regarding Defendant’s request for counsel and the reference to that request in closing argument did not improperly suggest that an inference of guilt be drawn from the invocation of his rights. Thus, the court did not plainly err in failing to *sua sponte* declare a mistrial on that ground.

The omission of punishment information in the verdict-director was not prejudicial to Defendant because the jury was otherwise informed that first-degree murder carried a mandatory sentence of life imprisonment without the possibility of probation or parole

Opinion by: Robert G. Dowd, Jr., J.
Lisa Van Amburg, C. J. and Lawrence E. Mooney, J., concur.

Attorney for Appellant: Samuel E. Buffaloe

Attorney for Respondent: Gregory L. Barnes

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