

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION THREE**

STATE OF MISSOURI,	)	No. ED102585
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	13SL-CR04581-01
	)	
DAVID E. SMITH	)	Honorable Tom W. DePriest, Jr.
	)	
Appellant.	)	Filed: April 5, 2016

David E. Smith (“Defendant”) appeals the judgment entered upon a jury verdict convicting him of one count of first-degree assault, one count of first-degree robbery, and two counts of armed criminal action. On appeal, Defendant argues the trial court erred in denying his motion for a mistrial and, in the alternative, his motion to continue the trial, after it was discovered during the trial that Bridgeton police had video surveillance footage from the scene of the crimes which was not disclosed to the defense prior to trial. Defendant also claims the trial court erred in denying his motions to dismiss his charges on the grounds his right to a speedy trial had been violated.

AFFIRMED.

Division Three holds:

- (1) Defendant has not demonstrated the State’s failure to make a timely disclosure of video surveillance evidence resulted in fundamental unfairness or was material under *Brady v. Maryland*, 373 U.S. 83 (1963). Accordingly, we find the trial court did not abuse its discretion in denying Defendant’s motion for a mistrial, or in the alternative, his motion for a continuance, under the circumstances of his case.
  
- (2) Courts must balance four factors in determining whether a defendant’s constitutional right to a speedy trial has been violated: (1) the length of the delay in bringing the defendant to trial; (2) the reasons for the delay; (3) the defendant’s assertion of his right to a speedy trial; and (4) any prejudice suffered by the defendant as a result of the delay. After balancing these factors, we hold Defendant’s constitutional right to a speedy trial was not violated.

Opinion by: Robert M. Clayton III, P.J.  
Lawrence E. Mooney, J., and James M. Dowd, J., concur

Attorney for Appellant: Margaret M. Johnston

Attorney for Respondent: Chris Koster and Daniel N. McPherson

**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.**