

**MISSOURI COURT OF APPEALS
EASTERN DISTRICT**

STATE OF MISSOURI,)	No. ED91896
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	
YAHSHÉE ROBINSON,)	Hon. Margaret M. Neill
Appellant.)	FILED: September 15, 2009

Yahsheel Robinson (“Defendant”) appeals from the judgment of the trial court following jury verdicts of guilty on charges of murder in the first degree, armed criminal action, and tampering with physical evidence. The trial court sentenced Defendant as a persistent offender to concurrent terms of imprisonment for life without the possibility of parole, for ten years, and for four years on the charges of murder, armed criminal action, and tampering respectively.

AFFIRMED IN PART AND MODIFIED IN PART.

DIVISION ONE HOLDS:

1. The trial court did not err in permitting a witness to testify about an inculpatory statement made by Defendant. The State promptly disclosed this evidence to Defendant once it was discovered, and did not violate Rule 25.03.
2. The trial court did not err in admitting a letter written by Defendant to a witness instructing her what to say in support of his defense. The State disclosed this evidence in a timely manner when it was discovered, and nothing in the record indicates that the State should have known of the existence of the letter sooner.
3. The trial court erred when it allowed the State to introduce evidence of Defendant’s status as a prior offender after the case had been submitted to the jury, but Defendant was not prejudiced by this error in that he waived his statutory right to be sentenced by a jury by failing to raise this issue in a timely manner.
4. The trial court plainly erred when it entered written sentence and judgment that Defendant was a persistent felony offender where Defendant was not charged as a persistent felony offender but rather as a prior felony offender. Defendant’s punishment was not enhanced by the incorrect status of a persistent offender, and he was not prejudiced.

Opinion by: Clifford H. Ahrens, J. Kathianne Knaup Crane, P.J. and Nannette A. Baker, J. concur.

Attorney for Appellant: Gwenda D. Robinson

Attorney for Respondent: Chris Koster

<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>
