

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,	)	No. ED92056
	)	Appeal from the Circuit Court of
vs.	)	St. Charles County
	)	
STEVEN E. SMITH, Appellant.	)	Filed: June 29, 2010

### OPINION SUMMARY

Steven Smith (Defendant) appeals from the judgment of the Circuit Court of St. Charles County convicting him of forcible rape, forcible sodomy, assault in the second degree, felonious restraint, and three counts of armed criminal action. Defendant claims that the trial court erred in sustaining the State's objections to: (1) the admission of evidence of prior consensual sexual conduct between Defendant and the victim (S.F.); (2) Adrian Smith's testimony regarding the S.F.'s poor reputation for truthfulness; and (3) Darryl Southard's testimony regarding the S.F.'s poor reputation for truthfulness.

AFFIRMED.

Division Two Holds: The trial court did not abuse its discretion or plainly err in excluding the evidence proffered by Defendant because: (1) the exclusion of evidence of Defendant's prior sexual conduct with S.F. did not deprive Defendant of a fair trial; and (2) Mr. Smith's and Mr. Southard's testimony regarding S.F.'s poor reputation for truthfulness was based on their personal experience and not on their knowledge of S.F.'s reputation for truthfulness in the community.

Opinion by: Patricia L. Cohen, J.      Sherri B. Sullivan, P.J., and Robert G. Dowd, Jr., concur.

Attorney for Appellant:      Margaret M. Johnston

Attorney for Respondent:      Shaun J. Mackelprang

<p><b>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.</b></p>
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