

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,) No. ED92632
)
 Respondent,) Appeal from the Circuit Court
) of St. Charles County
 v.) Case Number 03CR-124862-01
)
 BRIAN B. FASSERO,) Honorable Ted House
)
 Appellant.) Filed: March 9, 2010

Brian B. Fassero (Defendant) appeals from the trial court’s judgment entered upon a retrial by jury of the penalty phase and sentencing portion of his trial, in which a jury had found him guilty of one count of child molestation in the first degree, in violation of Section 566.067 RSMo 2000.

AFFIRMED.

Division Four Holds: The trial court: 1) did not plainly err in overruling Defendant’s motion for a continuance due to alleged late endorsement of certain witnesses because the type of testimony presented by these witnesses should have been readily contemplated by Defendant and any such late disclosure did not result in fundamental unfairness or prejudice to substantial rights of Defendant; and 2) did not abuse its discretion in overruling Defendant’s motion for a continuance because Defendant failed to demonstrate that his ability to prepare for trial was hampered by the Department of Correction’s failure to transport Defendant to St. Charles County until three days prior to trial, to delineate how a continuance would have aided his defense, or to show that he was prejudiced by the trial court’s denial.

Opinion by: Gary M. Gaertner, Jr., J.
Kurt S. Odenwald, P.J., and George W. Draper III, J., concur.

Attorneys for Appellant: Craig A. Johnston

Attorneys for Respondent: Chris Koster and Karen L. Kramer

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.