

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED93331
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	
VICTOR D. BURTON,)	Hon. Thomas C. Grady
)	
Appellant.)	FILED: August 31, 2010

Victor Burton (“Defendant”) appeals from the judgment of the trial court entered after a jury convicted him of first-degree domestic assault (“Count I”), a felony, and violation of an order of protection (“Count II”), a misdemeanor. He contends that the trial court clearly erred in denying his motions for a judgment of acquittal because the evidence was insufficient to prove his guilt on Count II. He also argues that the trial court abused its discretion in admitting evidence of his prior battery.

AFFIRMED IN PART AND REVERSED IN PART.

DIVISION THREE HOLDS:

1. Defendant was not prejudiced by the trial court’s admission of evidence regarding his prior battery of the victim. Assuming *arguendo* that the trial court erred in admitting evidence of the prior battery, the evidence of Defendant’s guilt is overwhelming, and overcomes the presumption of prejudice that arises from the erroneous admission of evidence.

2. The trial court erred in overruling Defendant’s motion for a judgment of acquittal on Count II. The State failed to adduce sufficient evidence at trial that Defendant had legal notice of the foreign order of protection, or actual notice and knowledge of that order of protection.

Opinion by: Clifford H. Ahrens, J. Sherri B. Sullivan, P.J. and Lawrence E. Mooney, J., concur.

Attorney for Appellant: Gwenda Renee Robinson

Attorney for Respondent: Chris Koster

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.
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