

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

Division Five

STATE OF MISSOURI,) No. ED94181
)
 Respondent,) Appeal from the Circuit Court
) of the City of St. Louis
 v.) Case No. 0722-CR06369-01
)
 KRISTEN E. SCHALLON,) Honorable Michael K. Mullen
)
 Appellant.) Filed: May 24, 2011

Kristen Schallon (Schallon) appeals from a sentence and judgment of conviction for multiple sexual offenses.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Division Five Holds: The trial court erred in (1) accepting the jury's verdict on Count 15, in that there was not sufficient evidence presented at trial from which a reasonable juror could have found him guilty of Count 15 as charged; (2) submitting both Count 21 and Count 26 to the jury, in that both counts stemmed from the same incident, in violation of the Double Jeopardy Clause; and (3) sentencing Schallon to seven years in the Missouri Department of Corrections on Count 20, because that sentence exceeded the maximum punishment permitted by law. The trial court did not err in overruling Schallon's motion for a mistrial. We vacate Count 15; and we remand for the trial court to vacate either Count 21 or 26, and for resentencing on Count 20.

Opinion by: Gary M. Gaertner, Jr., P.J.
Mary K. Hoff, J., and Patricia L. Cohen, J. concur.

Attorneys for Appellant: Alexandra E. Johnson

Attorneys for Respondent: Chris Koster
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.