

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,) No. ED94705
) Appeal from the Circuit Court of
vs.) the City of St. Louis
) Honorable John J. Riley
EMILY BOLDEN, Appellant.) Filed: September 20, 2011

Emily Bolden (Defendant) appeals the judgment of conviction entered by the Circuit Court of the City of St. Louis after a jury found her guilty of first-degree assault and armed criminal action. Defendant claims the trial court: (1) plainly erred in submitting to the jury an incorrect instruction on defense of another; and (2) abused its discretion in refusing to grant a new trial or evidentiary hearing based on Defendant's allegations of juror misconduct.

AFFIRMED.

Division Four Holds: The trial court did not plainly err in submitting to the jury an instruction on the defense of another, which contained several typographical errors and followed an outdated MAI-CR 3d instruction, because the instructional errors did not affect the jury's verdict. As to Defendant's second point on appeal, the court holds that the trial court did not abuse its discretion in refusing to grant a new trial or evidentiary hearing based on Defendant's allegations of juror misconduct because a juror cannot be heard to impeach his own verdict with evidence that he did not join in the verdict.

Opinion by: Patricia L. Cohen, P.J.
Lawrence E. Mooney, J., and George W. Draper III, J., concur.

Attorney for Appellant: Jessica Hathaway

Attorney for Respondent: Shaun J. Mackelprang

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