

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED96407
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable John J. Riley
STANLEY G. BODY, JR.,)	
)	
Appellant.)	FILED: April 17, 2012

Stanley Body (Body) appeals from the trial court's judgment after a jury trial convicting him of first degree robbery and armed criminal action. The State presented evidence that the victim of the crime, Raymond Burrows (Burrows), identified Body in both photo and physical lineups as the individual who robbed him. On appeal, Body argues that the trial court erred in allowing the identification testimony because the police procedures used during the photo and physical lineups impermissibly suggested to Burrows that Body was his assailant. Body also argues that the trial court erred in admitting the same testimony because Burrows only saw his assailant for a limited time, and in poor light, and therefore the identification testimony was unreliable, and more prejudicial than probative.

AFFIRMED

Division IV holds: 1) The record does not contain evidence that the photo and physical lineups were conducted using impermissibly suggestive police procedures such that the trial court's decision admitting the identification evidence violated due process. 2) Because Body failed to establish that the police utilized suggestive identification procedures, we do not reach the issue of whether the trial court should have excluded the identification evidence as unreliable under the due process clause. 3) Finally, because Body failed to demonstrate that the identification evidence was more prejudicial than probative, the trial court's decision admitting the evidence was not plain error.

Opinion by: Kurt S. Odenwald, C.J., Patricia L. Cohen, J., and Robert M. Clayton III, J., Concur.

Attorney for Appellant: Andrew E. Zleit

Attorney for Respondent: Chris Koster and Robert J. Bartholomew

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.