

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION TWO**

STATE OF MISSOURI,	)	No. ED96865
	)	
Respondent,	)	Appeal from the Circuit Court of
	)	the City of St. Louis
v.	)	Cause No. 1022-CR05552
	)	Honorable Angela T. Quigless
CHARLES A. SMITH,	)	
	)	
Appellant.	)	Filed: May 15, 2012

Appellant Charles A. Smith appeals his convictions for one count of aggravated stalking, four counts of violation of a protective order, and one count of domestic assault in the second degree.

**AFFIRMED IN PART; REVERSED IN PART.**

**DIVISION TWO HOLDS:** The trial court committed plain error in accepting the jury’s verdicts for aggravated stalking and violations of a protective order for the same conduct because such convictions amounted to a double jeopardy violation. Therefore, the convictions for violations of a protective order are vacated. Additionally, the trial court plainly erred in instructing the jury on separate count of a violation of a protective order because the instruction departed from MAI-CR and prejudiced Smith. This conviction is also vacated. The trial court did not err in denying a request for mistrial when an inadmissible statement was inadvertently mentioned at trial because the court sustained an objection to the statement and instructed the jury to disregard the statement.

Opinion by: Kenneth M. Romines, J.  
Kathianne Knaup Crane, P.J. and Lawrence E. Mooney, concur.

Attorneys for Appellant: Roxanna A. Mason

Attorneys for Respondent: Timothy A. Blackwell

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