

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent, ) No. ED97949  
) Appeal from the Circuit Court of  
vs. ) the City of St. Louis  
) Honorable Robin Ransom Vannoy  
CORNELL MANLEY, Appellant. ) Filed: September 24, 2013

Cornell Manley (Defendant) appeals the judgment of conviction entered after a jury found him guilty of one count of first-degree murder, two counts of first-degree assault, and three counts of armed criminal action. Defendant claims the trial court: (1) abused its discretion in overruling Defendant's objections when the prosecutor asked the venire panel whether they required certain types of evidence to consider conviction; and (2) plainly erred in failing to declare a mistrial and instructing the jury to continue deliberations. Defendant also filed with this court a motion to remand based on newly discovered evidence, which we took with the case.

AFFIRMED.

Division Four Holds: Defendant's motion to remand based on newly discovered evidence is denied because Defendant failed to demonstrate that the affidavit upon which he bases his motion is credible and reasonably sufficient to raise a substantial doubt as to the result of a new trial. The trial court did not abuse its discretion in overruling Defendant's objections to the prosecutor's questions during voir dire because the questions properly tested the venire's ability to follow the trial court's instructions and prejudice about certain types of evidence. Finally, the trial court did not plainly err in instructing the jury to continue deliberating because the instruction was not coercive and the jury continued to deliberate for an additional two hours before returning a guilty verdict.

Opinion by: Patricia L. Cohen, J.  
Lisa S. Van Amburg, P.J., and Gary M. Gaertner, Jr., J., concur.

Attorney for Appellant: Lisa M. Stroup

Attorney for Respondent: Gregory L. Barnes

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