

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED98489
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
)	of St. Charles County
v.)	
)	
DANIEL K. McKAY,)	Honorable Nancy L. Schneider
)	
Defendant/Appellant.)	Filed: September 10, 2013

Daniel K. McKay (Appellant) appeals from the trial court’s judgment entered upon a jury verdict convicting him of unlawful possession of a firearm and two counts of sale of a controlled substance.

AFFIRMED IN PART and REMANDED IN PART.

Division Two Holds: (1) The trial court did not err in denying Appellant’s motion to dismiss for prosecutorial misconduct. (2) The State failed to bring Appellant to trial within 180 days of his request for disposition of detainer, such request not being waived; therefore, the cause is remanded to the trial court for a determination of whether his constitutional right to a speedy trial was violated in order to fulfill compliance with Section 217.460, RSMo 2012. (3) The trial court did not err in denying Appellant’s motions for acquittal at the close of the State’s evidence and at the close of all of the evidence, because the State made a submissible case against Appellant for unlawful possession of a firearm and two counts of sale of a controlled substance. (4) Appellant did not establish that the State withheld evidence or procured false testimony. (5) The trial court did not commit error, plain or otherwise, when it instructed the jury that Appellant had a prior felony conviction, because the parties stipulated to its admission and it was an element of one of the crimes with which he was charged. (6) Ineffectiveness of counsel claims cannot be raised on direct appeal.

Opinion by: Sherri B. Sullivan, J. Lawrence E. Mooney, P.J., and Robert G. Dowd, Jr., J., concur.

Attorney for Appellant: Pro Se
Attorney for Respondent: Timothy A. Blackwell

<p style="text-align:center">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.</p>
