

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED99778
)	
Respondent,)	Appeal from the Circuit Court of the
)	
vs.)	City of St. Louis
)	
)	Honorable John F. Garvey
MICHAEL SUTHERLAND,)	
)	Filed: April 29, 2014
Appellant.)	

Michael Sutherland (Defendant) appeals the judgment of conviction entered by the Circuit Court of the City of St. Louis after a jury found him guilty of second-degree domestic assault, section 565.073, and third-degree domestic assault, section 565.074. Defendant claims the trial court erred in denying his: (1) motions for judgment of acquittal because the evidence was insufficient to support his conviction of second-degree domestic assault for choking C.K.; and (2) request for a continuance.

AFFIRMED.

Division Three Holds: (1) Given C.K.'s testimony that Defendant held her up against a wall by her neck and squeezed her neck, a reasonable juror could have inferred Defendant made C.K.'s normal breathing difficult by compressing the throat with strong external pressure. Therefore, the State presented sufficient evidence that Defendant committed second-degree domestic assault by choking C.K. (2) The trial court did not err in denying Defendant's request for a continuance because Defendant did not explain how further investigation would aid or change his defense in any way.

Opinion by: Angela T. Quigless, Judge
Mary K. Hoff, Presiding Judge, concurs and
Kurt S. Odenwald, Judge, dissents in separate opinion.

Attorney for Appellant: Amy E. Lowe
Attorney for Respondent: Adam S. Rowley

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.