

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

WALTER L. ROSS.

Appellant

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DOCKET NUMBER WD69768

DATE: AUGUST 25, 2009

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Appeal From:

Circuit Court of Nodaway County, MO  
The Honorable Roger Martin Prokes, Judge

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Appellate Judges:

Division One: James Edward Welsh, P.J., Victor C. Howard, and Alok Ahuja, JJ.

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Attorneys:

Margaret M. Johnston, Columbia, MO

Counsel for Appellant

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Attorneys:

Mary H. Moore, Jefferson City, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, Respondent, v.  
WALTER L. ROSS, Appellant**

**WD69768**

**Nodaway County**

Before Division One Judges: James Edward Welsh, P.J., Victor C. Howard, and Alok Ahuja, JJ.

Walter L. Ross appeals the circuit court's judgment convicting him of first degree robbery, armed criminal action, unlawful use of a weapon, and possession of a controlled substance. Ross contends that the circuit court erred in overruling his Motion for Judgment of Acquittal at the close of the evidence because the State failed to prove he possessed the baggie of Ecstasy. He also contends that the circuit court abused its discretion when it restricted his cross-examination of a State's witness concerning a suicide attempt.

**AFFIRMED.**

**Division One holds:**

1. The circuit court did not err in overruling Ross's Motion for Judgment of Acquittal at the close of the evidence. The State produced direct evidence of Ross's actual possession of the baggie of Ecstasy pills. Ross's possession of the pills, although fleeting, when coupled with his statement to his niece to conceal the drugs before they were detected, is sufficient evidence for a reasonable juror to find beyond a reasonable doubt that Ross had actual possession of the baggie of Ecstasy.

2. The circuit court did not abuse its discretion when it restricted Ross's cross-examination of a State's witness concerning a suicide attempt. Ross failed to properly preserve this issue because of an inadequate offer of proof. Our review of this point then is limited to that accorded plain error. The additional area in which Ross sought to inquire could have and should have been covered in his cross-examination or his recross-examination of the witness. This new area of inquiry was beyond the scope of the witness's previous direct and cross-examination. The circuit court, therefore, was well within its discretion to disallow any further inquiry of the witness. Moreover, the circuit court was certainly within its discretion to determine that additional impeachment examination would cause undue delay or was a waste of time and that that outweighed the probative value of the proffered testimony. Nothing in our review of the case indicates to us that the circuit court abused its discretion in bringing to an end the cross-examination of the State's witness.

**Opinion by: James Edward Welsh, J.**

August 25, 2009

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