

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
ANTHONY D. SIMPSON**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD70208

DATE: July 27, 2010

Appeal From:

Jackson County Circuit Court
The Honorable Ann Mesle, Judge

Appellate Judges:

Division One: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin,
Judges

Attorneys:

Shaun J. Mackelprang and Robert J. (Jeff) Bartholomew, Jefferson City, MO, for respondent.

Ruth Sanders, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

ANTHONY D. SIMPSON,

APPELLANT.

No. WD70208

Jackson County

Before Division One Judges: James M. Smart, Jr., Presiding Judge, Mark Pfeiffer and Cynthia L. Martin, Judges

Anthony Simpson appeals from the trial court's judgment finding him guilty of voluntary manslaughter and armed criminal action after a jury trial. Simpson alleges that the trial court erred in denying his motion for judgment of acquittal at the close of all the evidence. Simpson alleges there was insufficient evidence from which a reasonable jury could have found Simpson guilty of voluntary manslaughter in that a reasonable jury could not have found that Simpson acted under the influence of sudden passion arising from adequate cause. Since the jury acquitted Simpson of murder in the second degree, and since, according to Simpson, the evidence could not have supported a finding of sudden passion arising from adequate cause, Simpson argues that the only supportable verdict was acceptance of his defense of self-defense. Simpson thus argues that his conviction must be vacated.

AFFIRMED.

Division One holds: Sufficient evidence was presented from which the jury could find Simpson acted under the influence of sudden passion arising from adequate cause to support his conviction of voluntary manslaughter. Simpson's assertion of the defense of self-defense coupled with an acquittal on the higher charge of murder in the second degree does not escape the scope of section 545.030.1(17), which provides that a judgment shall not be affected due to evidence that may show guilt of a higher degree of the offense than the convicted offense.

Opinion by: Cynthia L. Martin, Judge

July 27, 2010

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