

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

WILBER MATEO,

Appellant.

DOCKET NUMBER WD71117

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: February 15, 2011

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Gene R. Martin, Senior Judge

APPELLATE JUDGES

Division One: Mark D. Pfeiffer, Presiding Judge, and Thomas H. Newton
and Alok Ahuja, Judges

ATTORNEYS

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Attorneys for Respondent,

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Attorney for Appellant.



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

STATE OF MISSOURI,)
)
Respondent,)
v.)
)
WILBER MATEO,)
)
Appellant.)

WD71117

Jackson County

Before Division One Judges:

Mark D. Pfeiffer, Presiding Judge, and
Thomas H. Newton and Alok Ahuja, Judges

Wilber Mateo appeals his conviction and sentence on three counts of endangering the welfare of a child, three counts of abuse of a child, and one count of first-degree assault. Mateo raises two points on appeal, contending that: (1) his rights were violated when detectives continued to question him after he invoked his right to counsel because he did not knowingly, voluntarily, and intelligently waive his previously invoked right to counsel; and (2) the trial court committed reversible error in failing to administer an oath to the child victim or otherwise establish the child victim's present understanding of the obligation to give truthful testimony before testifying at trial.

AFFIRMED.

Division One holds:

We find that when Mateo asked whether there was an attorney "there" or "available" for him, he did not unequivocally request an attorney. Furthermore, the record does not support Mateo's contention that the waiver of his *Miranda* rights was not *voluntary* or not *knowing*. While the detectives' statement was plainly phrased to attempt to persuade Mateo to waive his *Miranda* rights and speak to the detectives without an attorney present, it did not misrepresent or undercut the *Miranda* warnings Mateo was properly given. In addition, we conclude that Mateo

has failed to demonstrate any manifest injustice in the proceedings below regarding the child victim's unsworn testimony.

Opinion by: Mark D. Pfeiffer, Judge

February 15, 2011

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