

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

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

PATRICK L. HARRIS,

Appellant.

DOCKET NUMBER WD73910

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 24, 2012

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce, Judge

JUDGES

Division Two: Mitchell, P.J., and Pfeiffer and Witt, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Attorneys for Respondent,

Rosalynn Koch, Assistant Public Defender
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Attorney for Appellant.



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

STATE OF MISSOURI,)
)
) Respondent,)
)
v.) OPINION FILED:
) April 24, 2012
)
PATRICK L. HARRIS,)
)
) Appellant.)

WD73910

Cole County

Before Division Two Karen King Mitchell, Presiding Judge, and Mark D. Pfeiffer and
Judges: Gary D. Witt, Judges

Patrick L. Harris (“Harris”) robbed seven men at a Jefferson City, Missouri, law office at gunpoint, and exchanged gunfire with one of the robbery victims. During the robbery, Harris ordered the men to lay face-down on the floor and put their valuables on the floor for collection. Harris then ordered one of the men to collect the items, which he began to do before the shooting between Harris and one of the other men, at which point Harris fled the scene. The morning after the robbery, Harris was found hiding in a nearby apartment with a gunshot wound to his hand. At his jury trial, the State introduced evidence of blood samples taken from the scene that were consistent with Harris. Harris was convicted of first-degree robbery, assault, armed criminal action and being a felon in possession of a firearm. For the assault conviction, the trial court orally pronounced Harris’s sentence as life imprisonment, but the written judgment showed the sentence as ninety-nine years’ imprisonment. Harris appeals to this court.

AFFIRMED IN PART; REVERSED IN PART.

Division Two holds:

- (1) The crime of first-degree robbery includes the forcible stealing of property during which the robber is armed with a deadly weapon or causes serious physical injury to another. § 569.020.1. Forcible stealing is stealing that involves the use or threatened use of immediate physical force on another to complete the stealing. § 569.010(1). To steal property is to appropriate it with the purpose to deprive the owner of the property without

his consent or by means of deceit or coercion. § 570.030. The appropriation requirement of stealing is one which describes the methods of exercising dominion over an object, and is met when the robber wrongfully assumes complete control over the property of another inconsistent with the owner's rights. Harris argued because he never, personally, physically moved the property, he did not commit robbery because he did not appropriate the property. He argued that, therefore, there was insufficient evidence to support his robbery conviction. However, Harris exercised complete dominion over the property when he ordered the men, at gunpoint, to surrender their property for collection. There was sufficient evidence to support his conviction.

(2) Harris also argued the trial court plainly erred in admitting evidence and testimony on blood samples taken from the crime scene because the State did not establish the evidence's chain of custody. To admit the evidence Harris complains of, the trial court must be satisfied as to the identity of the exhibits and that the exhibits were in the same condition when tested as when they were originally obtained; the State need not prove hand-to-hand custody of the evidence. Further, the trial court is free to assume that, absent a showing of bad faith or tampering, that evidence has been properly handled. The trial court did not plainly err in admitting this evidence—the evidence was properly sealed and an evidence technician testified to how it was collected and tested. In addition, Harris did not suffer a manifest injustice or miscarriage of justice due to the admission of the evidence, given the other evidence against him, such as two eyewitness identifications and a trail of blood leading from the scene to his hiding place.

(3) If there is a material difference between the trial court's oral pronouncement of sentence and the sentence in the written judgment, the oral pronouncement of sentence controls. Here, the trial court's announced sentence and its written sentence for Harris's assault conviction were not the same. This court can correct a written judgment that is erroneous as to the time or place of imprisonment. Harris's assault sentence is ordered to be corrected to conform to the trial court's oral pronouncement of life imprisonment.

Opinion by: Mark D. Pfeiffer, Judge

April 24, 2012

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