

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

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

CHRISTOPHER JAMES WADEL,

Appellant.

DOCKET NUMBER WD74974

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 30, 2013

APPEAL FROM

The Circuit Court of Bates County, Missouri
The Honorable James K. Journey, Judge

JUDGES

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

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Jessica P. Meredith, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent,

William J. Swift, Assistant Public Defender
Columbia, MO

Attorney for Appellant.



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

STATE OF MISSOURI,)
)
) **Respondent,**)
v.) **OPINION FILED:**
) **April 30, 2013**
CHRISTOPHER JAMES WADEL,)
)
) **Appellant.**)

WD74974

Bates County

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

Christopher J. Wadel appeals his convictions, following a jury trial, for two counts of first-degree statutory sodomy in violation of section 566.062, one count of first-degree statutory rape in violation of section 566.032, and two counts of first-degree child endangerment in violation of section 568.045. Wadel claims that the evidence was insufficient to support his convictions of first-degree statutory sodomy and first-degree statutory rape due to a lack of corroborating evidence. Wadel also claims that the trial court plainly erred in instructing the jury on the two charges of child endangerment in that the instructions failed to describe the conduct forming the basis for the charges, thereby relieving the State of its burden to prove those facts to the jury. Because we find that there was sufficient evidence to support the convictions and that the trial court did not plainly err when it instructed the jury, we affirm the convictions and sentences.

AFFIRMED.

Division Two holds:

- (1) Wadel's reliance on *State v. Pierce*, 906 S.W.2d 729, 735-36 (Mo. App. W.D. 1995) is misplaced, in that, unlike this case, *Pierce* relied not only on the victim's recantation but also on the absence of physical evidence and the finding that the surrounding circumstances and common experience did not support the allegation of sexual intercourse.

- (2) Although the victims recanted at trial, Wadel failed to show that the allegations were in conflict with physical facts, surrounding circumstances, or common experiences, and, as such, he failed to demonstrate that the corroboration rule applied in the context of this case. Wadel also failed to invoke the destructive contradictions doctrine as he did not allege that the victims' trial testimony was contradictory; instead, he argued only that there were contradictions between the victims' trial testimony and prior out-of-court statements. Further, we reject Wadel's attempt to invoke a theory distinct from the corroboration rule and the destructive contradictions doctrine, wherein corroboration of a victim's allegations would be required any time the victim subsequently recants at trial. Consequently, the general rule that a sexual offense victim's testimony alone is sufficient to sustain a conviction applied, and, therefore, the victims' allegations were sufficient to sustain Wadel's convictions.
- (3) The trial court erred in submitting two verdict directors to the jury that did not adequately describe Wadel's alleged conduct. However, because the alleged conduct was fully described in other submitted verdict directors, and Wadel was found guilty of those corresponding counts, the error did not prejudice Wadel, much less result in manifest injustice or a miscarriage of justice, and, therefore, Wadel was not entitled to plain error relief.

Opinion by: Karen King Mitchell, Judge

April 30, 2013

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.