

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
ANTONIO WEST**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD75335

DATE: February 18, 2014

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Appeal From:

Buchanan County Circuit Court  
The Honorable Randall R. Jackson, Judge

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Appellate Judges:

Special Division: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge and Zel M. Fischer,  
Special Judge

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Attorneys:

Robert J. Bartholomew, Jr., Jefferson City, MO, for respondent.

Craig A. Johnston, Columbia, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**ANTONIO WEST,**

**APPELLANT.**

No. WD75335

Buchanan County

Before Special Division: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge and Zel M. Fischer, Special Judge

Antonio L. West was convicted by a Buchanan County jury of three counts of delivery of a controlled substance, a class B felony, in violation of section 195.211. Evidence admitted against West included audiotapes of three controlled drug buys wherein a confidential informant recorded conversations with West during drug purchases. After his conviction, West moved for a new trial alleging that the jury improperly considered and used against him the fact that he did not testify in his own defense. West based his motion on juror testimony he attempted to proffer that would have allegedly shown that jurors discussed wanting to hear his voice so that they could have compared it to the voice on the recordings. West argues that his constitutional rights under the Fifth, Sixth and Fourteenth Amendments were violated because the jury considered a negative inference from West's exercise of his right against self-incrimination. West further contends that the jury's improper consideration of his failure to testify deprived him of a fair and impartial jury.

**AFFIRMED.**

**Special Division Holds:**

The trial court did not err in denying West's motion for a new trial nor in denying his proffer of a juror's testimony in support because neither exception to the general rule prohibiting impeachment of the verdict due to juror misconduct was applicable to the facts at bar. The court refuses to expand on the very limited and narrow exceptions which do allow a juror to testify regarding matters that occurred inside the jury room.

Opinion by Gary D. Witt, Judge

February 18, 2014

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