

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
JOHN M. RAMIREZ**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD75566

DATE: November 12, 2014

Appeal From:

Johnson County Circuit Court
The Honorable Jacqueline A. Cook, Judge

Appellate Judges:

Division Three: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Attorneys:

Daniel N. McPherson, Jefferson City, MO, for respondent.

Kent Denzel, Columbia, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,

RESPONDENT,

v.

JOHN M. RAMIREZ,

APPELLANT.

No. WD75566

Johnson County

Before Division Three: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

John M. Ramirez appeals his convictions of second-degree murder and second-degree arson following a jury trial. Ramirez argues that the trial court erred by denying his motion to suppress an incriminating statement he claims was obtained in violation of his Fifth Amendment privilege against self-incrimination. Ramirez argues that a detective's attempt to collect DNA evidence from him after he invoked his Fifth Amendment right to counsel was the functional equivalent of interrogation and that an incriminating statement made during the encounter with the detective should have been suppressed at trial. Ramirez also argues that the trial court committed plain error by failing to independently instruct the jury to disregard a portion of the State's closing argument that Ramirez claims improperly vouched for the credibility of a witness.

Affirmed.

Division Three holds:

(1) Without deciding whether the detective's actions were the functional equivalent of interrogation, the trial court did not err in denying the motion to suppress because the admission of Ramirez's incriminating statement constituted harmless error within the meaning of *Chapman v. California*. Ramirez's statement implicating himself was cumulative of other properly admitted evidence wherein Ramirez implicated himself in the crime charged.

(2) The State did not improperly vouch for a witness during its closing argument by saying the witness was honest with the jury where the State was specifically referring to the witness's testimony elicited at trial.

Opinion by Cynthia L. Martin, Judge

November 12, 2014

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