

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
DANIEL DUMOND BROWN, SR.**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD76245

DATE: July 29, 2014

Appeal From:

Clay County Circuit Court
The Honorable Anthony Rex Gabbert, Judge

Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, Joseph M. Ellis, Judge and Thomas H. Newton,
Judge

Attorneys:

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

Rebecca L. Kurz, Mission, KS, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

DANIEL DUMOND BROWN, SR.,

APPELLANT.

No. WD76245

Clay County

Before Division Three: Gary D. Witt, Presiding Judge, Joseph M. Ellis, Judge and Thomas H. Newton, Judge

Daniel Dumond Brown appeals the circuit court's judgment convicting him of two counts of robbery in the first degree and two counts of armed criminal action. He asserts two points on appeal. First, he contends that the court plainly erred in denying his motion for a continuance so that he could prepare to represent himself. Brown argues that the court did not properly consider the circumstances and this resulted in a manifest injustice. Second, Brown contends that the court abused its discretion in denying his request for a mistrial. Brown argues that an officer's statement at trial violated an order *in limine* when he referenced an inadmissible and uncharged crime.

AFFIRMED

Division Three holds:

- (1) Brown's right to self-representation is not *de facto* denied by a denial of a motion for a continuance. Brown had adequate time to prepare a defense and the circuit court's decision to grant or deny a continuance was made with contemplation of good cause being shown and for good and sufficient reasons.
- (2) The circuit court did not abuse its discretion when denying the motion for a mistrial. The court examines the prejudicial effect of the inadmissible evidence. The remark did not rise to the level of prejudice under a five-factor test and, thus, did not play a significant, if any, role in the jury's decision.

Opinion by Gary D. Witt, Judge

July 29, 2014

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