

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**Respondent,**

**v.**

**DERRELL M. WADE,**

**Appellant.**

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DOCKET NUMBER WD77034

**Date: April 28, 2015**

Appeal from:  
Jackson County Circuit Court  
The Honorable David M. Byrn, Judge

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Appellate Judges:  
Division Four: Alok Ahuja, Chief Judge, Presiding, Lisa White Hardwick and Mark D.  
Pfeiffer, Judges

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Attorneys:  
Dora Fichter, Jefferson City, MO for respondent.  
Damien S. DeLoyla, Kansas City, MO for appellant.

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

STATE OF MISSOURI

v.

DERRELL M. WADE,

Respondent,

Appellant.

WD77034

Jackson County

Before Division Four: Alok Ahuja, Chief Judge, Presiding, Lisa White Hardwick and Mark D. Pfeiffer, Judges

Derrell Wade appeals from his convictions for second-degree (felony) murder, first-degree robbery, two counts of armed criminal action, and one count of unlawful use of a weapon. Wade challenges the sufficiency of the evidence to support the felony murder, robbery, and armed criminal action convictions. He also contends the circuit court plainly erred in not *sua sponte* striking a venireperson.

AFFIRMED.

Division Four holds:

(1) The evidence was sufficient to support Wade's convictions. Consideration of the entire course of the robbery indicates that Wade used force to steal the victim's money, as he shot at the car in which the victim was sitting. After the victim fell out of the car, Wade shot twice at the victim before taking the victim's money. This evidence established that Wade committed first-degree robbery, as he forcibly stole the victim's money, and that he committed the corresponding armed criminal action count, because

he committed the robbery while using a deadly weapon. Furthermore, because the victim was killed during the robbery and Wade used a gun to facilitate the robbery, the evidence was sufficient to establish that Wade committed second-degree (felony) murder and its corresponding armed criminal action count.

(2) The circuit court did not plainly err in failing to strike a venireperson *sua sponte*. The court has no duty to strike a juror on its own motion, and in this case, defense counsel's questioning appeared to rehabilitate the venireperson as a viable juror. Thus, we cannot say that the court's failure to strike the venireperson *sua sponte* constituted evident, obvious, and clear error entitling Wade to plain error relief.

Opinion by: Lisa White Hardwick, Judge

**April 28, 2015**

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