

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI,
RESPONDENT**

vs.

**TIMOTHY WAYNE REGISTER,
APPELLANT**

DOCKET NUMBER WD77489

DATE: FEBRUARY 2, 2016

Appeal from:

The Circuit Court of Morgan County, Missouri
The Honorable G. Stanley Moore, Judge

Appellate Judges:

Before Division Three: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Gary D. Witt, J.

Attorneys:

Karen L. Kramer, for Respondent

William J. Swift, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI, RESPONDENT

v.

TIMOTHY WAYNE REGISTER, APPELLANT

WD77489

Morgan County, Missouri

Before Division Three Judges: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Gary D. Witt, J.

Timothy Register appeals from his convictions in the Circuit Court of Morgan County of one count of first degree sodomy, § 556.062; one count of first degree statutory rape, § 566.032; and two counts of first degree child molestation, § 566.067. He was sentenced as a prior and persistent offender to consecutive terms of twenty-five years on the sodomy count, twenty-five years on the statutory rape count, fifteen years on the first molestation count, and twenty-five years on the second molestation count.

In his sole point on appeal, Appellant contends that the trial court abused its discretion in allowing a written statement taken from the victim at a children's advocacy center to be read aloud to the jury. He contends that the reading of that statement to the jury constituted improper bolstering of the victim's trial testimony.

AFFIRMED.

Division Three holds:

- (1) A claim of error on the basis of improperly admitted hearsay, as asserted in Appellant's motion for new trial, is not same as a claim of error based upon improper bolstering, as raised on appeal.
- (2) Because Appellant failed to include a claim of bolstering based upon the reading aloud of the written statement in his motion for new trial, he failed to preserve such a claim for appellate review, and any review of his claim by this Court would be limited to plain error review.
- (3) Rule 30.20 authorizes this Court to review, in our discretion, plain errors affecting substantial rights if failing to grant relief would result in manifest injustice or a miscarriage of justice.
- (4) Appellant has not challenged on appeal the admission of the victim's written statement into evidence or the publishing of that document to the jury. This

Court fails to perceive how the verbal reading of a document that had already been admitted into evidence and been published to the jury could possibly be deemed so prejudicial as to have had a determinative effect on the outcome of the trial. Lacking any basis for believing that a manifest injustice or miscarriage of justice has occurred, we decline to exercise our discretion to review Appellant's claim for plain error.

Opinion by Joseph M. Ellis, Judge

Date: February 2, 2016

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