

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
WILLIS JACKSON HARTMAN III**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD77622

DATE: October 27, 2015

Appeal From:

Buchanan County Circuit Court
The Honorable Patrick K. Robb, Judge

Appellate Judges:

Special Division: Joseph M. Ellis, Presiding Judge, Gary D. Witt, Judge and Zel M. Fischer,
Special Judge

Attorneys:

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

William J. Swift, Columbia, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

WILLIS JACKSON HARTMAN III,

APPELLANT.

No. WD77622

Buchanan County

Before Special Division: Joseph M. Ellis, Presiding Judge, Gary D. Witt, Judge and Zel M. Fischer, Special Judge

Appellant Willis Hartman ("Hartman") appeals his conviction following a jury trial in the Circuit Court of Buchanan County, Missouri, for the Class C felony of use of a child in a sexual performance, under Section 568.080. Hartman raises two points on appeal. In his first point, Hartman argues the trial court erred in refusing to grant a mistrial because the presence of members associated with the group Bikers Against Child Abuse ("BACA") around the courthouse during trial deprived him of his rights to due process, a fair trial, and the presumption of innocence. In his second point, Hartman argues that the trial court abused its discretion when it permitted the two child victims to wear vests with "BACA" inscribed on the back while testifying.

WE AFFIRM

(1) The trial court did not err in refusing to grant a mistrial as Hartman failed to show an inherently prejudicial environment that deprived him of a fair trial as there was no evidence that any child abuse prevention message was communicated to the jury, either inside or outside of the courtroom, and there was no evidence that any other impermissible influences affected the jury

(2) The trial court did not abuse its discretion when it allowed the two child victims to wear vests with "BACA" inscribed on the back while testifying where the trial court appropriately balanced the needs of the child sexual abuse victims against the risk that impermissible factors would come into play in the minds of the jurors. The trial court ensured that "BACA" would not be explained to the jury and that no adult members of BACA wore their vests which set out the full name of the organization. In addition, there was no evidence the vests were intended to elicit sympathy from the jury. Accordingly, the trial court did not err.

Opinion by Gary D. Witt, Judge

October 27, 2015

This summary is UNOFFICIAL and should not be quoted or cited.