

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

STATE OF MISSOURI,)	No. ED103624
)	
Respondent,)	Appeal from the Circuit Court
)	of Cape Girardeau County
vs.)	
)	Honorable Michael E. Gardner
DARNELL BROWNLEE,)	
)	
Appellant.)	FILED: October 18, 2016

Darnell Brownlee (“Brownlee”) appeals from the judgment of the trial court following a jury trial convicting him of one count of distributing a controlled substance near a school in violation of Section 195.214. In his sole point on appeal, Brownlee argues that the trial court abused its discretion by admitting into evidence, without a proper foundation, a photograph purportedly depicting Brownlee’s location during the sale of the controlled substance in relation to a nearby school. Because the authenticating witness was familiar with the depicted subject matter and could testify from his personal observations, the trial court did not abuse its discretion in admitting the photograph.

AFFIRMED.

DIVISION FOUR HOLDS: The trial court did not abuse its discretion in admitting the photograph into evidence. The photograph’s authenticating witness was personally familiar with the area depicted by the photograph as well as the area in relation to the location of the sale and the nearby school. As a result, the authenticating witness could provide a proper foundation for the photograph’s admission into evidence. The photographer, or someone else familiar with the photograph’s creation, was not required to testify to the authenticity of the photograph.

Opinion by: Kurt S. Odenwald, Judge
Jr., J., concurs.

James M. Dowd, P.J., and Gary M. Gaertner,

Attorney for Appellant: Ellen H. Flottman

Attorney for Respondent: Chris Koster and Karen L. Kramer

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.