

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED91054
)	
vs.)	Appeal from the Circuit Court
)	of Cape Girardeau County
)	
JERRY D. COOK, Appellant.)	Filed: December 30, 2008

Jerry Cook (Defendant) appeals the judgment entered by the Circuit Court of Cape Girardeau County, following a jury trial convicting him of driving while intoxicated and assault of a law enforcement officer. Defendant was sentenced as a persistent offender to four years of incarceration for driving while intoxicated, and 30 days of incarceration for assault of a law enforcement officer. Defendant appeals the trial court's decision to overrule his Motion to Suppress Evidence and admit evidence, which he asserts resulted from an unlawful arrest in violation of the Fourth Amendment.

AFFIRMED.

Southern Division Holds: Although we find Defendant's arrest was unlawful and violated his Fourth Amendment rights when officers executed a warrantless arrest of Defendant in his home without consent or exigent circumstances, we find the evidence at issue was not the fruit of Defendant's unlawful arrest and thus, the trial court did not err in denying Defendant's Motion to Suppress or in admitting the evidence. We affirm.

Opinion by: Kurt S. Odenwald, J. Robert G. Dowd, Jr., P.J. and Roy L. Richter, J., Concur.

Attorney for Appellant: Phil R. Dormeyer

Attorneys for Respondent: Jeremiah "Jay" Nixon and Mary Highland Moore

<p>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.</p>
