

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED91056
)	
Respondent,)	Appeal from the Circuit Court of
)	Montgomery County, Missouri
v.)	Cause No. 07BB-CR00017-02
)	Honorable Kelly Broniec
MICHAEL MOORE,)	
)	
Appellant.)	Filed: March 17, 2009

Appellant Michael Moore appeals the judgment of the trial court after a jury convicted him of class D felony of failure to return to confinement pursuant to RSMo. § 575.220. Moore's motion for a new trial was overruled and the trial court sentenced him, as a prior and persistent offender, to a term of four years imprisonment concurrent to the term he was then serving.

In his sole point on appeal, Moore contends the State failed to adduce sufficient evidence to support a finding of a class D felony of failure to return to confinement.

REVERSED.

Division Five Holds: The trial court committed reversible error in denying Moore's motion for judgment of acquittal in that there was insufficient evidence to support a finding of class D failure to return to confinement as there was no evidence that Moore was serving a sentence to or in the Department of Corrections. We reverse and order Moore discharged from the conviction of failure to return to confinement.

Opinion by: Kenneth M. Romines, J. Nannette A. Baker, C.J. and Kurt S. Odenwald, J., concur.

Attorneys for Appellant: Nancy A. McKerrow and Ellen H. Flottman

Attorneys for Respondent: Dora A. Fitchter

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.