

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,	)	No. ED91186
	)	
vs.	)	Appeal from the Circuit Court of
	)	Cape Girardeau County
RANDY G. STONE, Appellant.	)	
	)	Filed: February 10, 2009

### OPINION SUMMARY

Defendant Randy Stone appeals from the judgment entered after a jury convicted him of one count of involuntary manslaughter in the first degree in connection with a fatal car accident.

AFFIRMED.

The trial court did not err by: (1) overruling Defendant's motion for judgment of acquittal because the record contained sufficient evidence for a jury to conclude beyond a reasonable doubt that Defendant acted with criminal negligence; (2) failing to declare a mistrial due to the prosecutor's references to the probability of intoxication based on a HGN test and related witness testimony at trial because Defendant was not prejudiced, and; (3) failing to *sua sponte* declare a mistrial when the State questioned a witness about the results of a blood test that was administered by a person without a Type I permit because Defendant was not prejudiced.

Opinion by: Patricia L. Cohen, J.                      Kurt S. Odenwald, P.J. and Glenn A. Norton, J., concur.

Attorney for Appellant:              Brocca L. Smith

Attorneys for Respondent:      Shaun J. Mackelprang and Jamie P. Rasmussen

<p><b>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.</b></p>
---