

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JEROME MORRIS, Appellant,)	ED91532
)	
vs.)	Appeal from the Circuit Court
)	of the City of St. Louis
STATE OF MISSOURI, Respondent,)	
)	Filed: May 26, 2009

Jerome Morris (Appellant) appeals from the trial court's judgment entered upon a jury verdict convicting him of unlawful use of a weapon and felony resisting arrest, and sentence of two consecutive terms of four years' imprisonment based on the trial court's finding that Appellant was a prior and persistent offender.

AFFIRMED as MODIFIED.

Division Three Holds: Section 558.021.2 RSMo 2000 provides that all facts necessary to establish prior and persistent offender status "shall be pleaded, established and found prior to submission to the jury outside of its hearing"; and since Appellant's status as a prior and persistent felony offender was not established until after the jury verdict, we direct the trial court to modify his status as a prior and persistent felony offender to a prior felony offender. The judgment and sentence in all other respects is affirmed.

Opinion by: Sherri B. Sullivan, J.

Robert G. Dowd, Jr., P.J. and Clifford H. Ahrens, J., concur.

Attorneys for Appellant: Gwenda R. Robinson

Attorneys for Respondent: Chris Koster and Jayne T. Woods

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.