

**OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION TWO**

STATE OF MISSOURI,)	No. ED93101
)	
Respondent,)	Appeal from the Circuit Court of
)	the City of St. Louis
vs.)	
)	Honorable Philip Heagney
DAROLD WALKER,)	
)	Cause No. 0722-CR03518
Appellant.)	
)	Filed: August 31, 2010

Darold Walker (hereinafter, “Appellant”) appeals from the trial court’s judgment after a jury found him guilty of domestic assault in the first degree, Section 565.072 RSMo (2000),¹ and armed criminal action, Section 571.015. The trial court sentenced Appellant as a prior and persistent offender and as a prior domestic violence offender to concurrent terms of twenty-five years’ imprisonment. Appellant raises two allegations of error, claiming the trial court abused its discretion in admitting evidence of prior acts of violence and plainly erred in sentencing him as a prior domestic violence offender.

AFFIRMED AS MODIFIED.

Division II Holds: (1) The trial court did not abuse its discretion in admitting a video taped deposition of Appellant’s victim, describing prior acts of violence committed by Appellant upon her. (2) The trial court incorrectly found Appellant to be a prior domestic violence offender rather than a persistent domestic violence offender. Accordingly, Appellant’s sentence is modified pursuant to Rule 30.23 to reflect Appellant’s status as a persistent domestic violence offender.

Opinion by: George W. Draper III, J.

Roy L. Richter, C.J., and Glenn A. Norton, P.J., concur

Attorneys for Appellants: Maleaner R. Harvey
Attorney for Respondents: Shaun J. Mackelprang
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.

¹ All further statutory references herein are to RSMo (2000), unless otherwise noted.