

OPINION SUMAMRY
MISSOURI COURT OF APPEALS – EASTERN DISTRICT

DIVISION FIVE

SANCHEZ TORELLO,)	No. ED94110
)	
Movant/Appellant,)	Appeal from the Circuit Court
)	of St. Charles County
vs.)	08SL-CC01953
)	
STATE OF MISSOURI,)	Honorable Lucy D. Rauch
)	
Respondent.)	FILED: March 22, 2011

Sanchez Torello (Movant), alleging the trial court erred in finding Movant was a persistent misdemeanor offender under Section 558.016, which removed the sentencing from the jury, appeals from the trial court’s Sentence and Judgment and Commitment. We affirm and remand for resentencing.

AFFIRMED AND REMANDED FOR RESENTENCING.

Division Five Holds: The trial court erred in finding that Movant was a prior and persistent misdemeanor offender because the State failed to prove beyond a reasonable doubt that his previous convictions were “committed at different times.”

Opinion by: Mary K. Hoff, Judge, Gary M. Gaertner, Jr., Presiding Judge and
Patricia L. Cohen, Judge, concur.

Counsel for Appellant: Ellen H. Flottman
Counsel for Respondent: Chris Koster, Richard A. Starnes

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.
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