

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED94323
)	
vs.)	Appeal from the City of St. Louis
)	Circuit Court
MIKAL MUHAMMAD, Appellant.)	Filed: March 1, 2011

Mikal Muhammad alleges the trial court plainly erred when it instructed the jury as to the offense of felonious restraint, rather than the offense of false imprisonment with which he was charged.

AFFIRMED IN PART; REVERSED IN PART; REMANDED WITH INSTRUCTIONS

DIVISION THREE HOLDS: We affirm the convictions for false imprisonment because the jury necessarily found all elements of false imprisonment when it concluded the defendant was guilty of the greater offense of felonious restraint. But we reverse the judgment's designation of the false-imprisonment counts as class D felonies and remand the cause with instructions to designate these offenses as class A misdemeanors and to resentence the defendant within the corresponding range of punishment.

Opinion by: Lawrence E. Mooney, J. Sherri B. Sullivan, P.J., and Clifford H. Ahrens, J.,
concur.

Attorney for Appellant: Brocca L. Smith

Attorneys for Respondent: Chris Koster, Shaun J. Mackelprang, and John W. Grantham.

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.