

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED99727
)	
vs.)	Appeal from the Circuit Court
)	of the City of St. Louis
SAMUEL MEEKS, Appellant.)	Filed: April 8, 2014

Samuel Meeks was convicted after a jury trial of one count of assault in the first degree, one count of resisting arrest, one count of armed criminal action, two counts of unlawful use of a weapon and one count of unlawful possession of a weapon. Meeks was sentenced as a prior and persistent offender. On appeal, Meeks argues plain error in the verdict directing instruction for the resisting arrest charge and plain error in sentencing him as a persistent offender. The State concedes error in the sentencing.

REVERSED AND REMANDED.

Division Two holds: The trial court plainly erred by instructing the jury that it could find Meeks resisted his own arrest by “physical force or physical interference.” “Physical interference” under the statute is not a means by which one can resist one’s own arrest. The erroneous instruction misdirected the jury as to the applicable law and excused the State from its burden of proving that Meeks resisted his arrest by one of the means set forth in the statute. That error, coupled with the prosecutor’s exclusive reliance on “physical interference” in arguing this count to the jury, affected the verdict and requires remand for a new trial on that count. The State failed to prove that Meeks was a persistent offender, and therefore his enhanced sentence on the assault conviction must be vacated and remanded for resentencing.

Opinion by: Robert G. Dowd, Jr., J
Lawrence E. Mooney, P.J. and Sherri B. Sullivan, J., concur.

Attorney for Appellant: Edward S. Thompson

Attorney for Respondent: Todd T. Smith

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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