

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI

Respondent

v.

ANDY DON SCOTT

Appellant

DOCKET NUMBER **WD69483**

DATE: February 10, 2009

Appeal From:

Circuit Court of Cole County, MO
The Honorable Richard G. Callahan, Judge

Appellate Judges:

Division One: Alok Ahuja, P.J., Harold L. Lowenstein, J., and Thomas H. Newton, C.J.

Attorneys:

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Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

STATE OF MISSOURI, Respondent, v.
ANDY DON SCOTT, Appellant

WD69483

Cole County

Before Division One Judges: Ahuja, P.J., Lowenstein, J., and Newton, C.J.

Mr. Andy Don Scott appeals the judgment for a conviction of leaving the scene of a motor vehicle accident in violation of § 577.060.1. On appeal, he asserts that the circuit court erred in submitting Instruction No. 5, the verdict director for the offense, because it conflicted with the substantive law in § 577.060.1. He claims that Instruction No. 5 conflicted with the substantive law because it (1) defined present at the scene as anyone who arrived “shortly thereafter” the accident and (2) failed to instruct the jury that he could not be guilty of leaving the scene of a motor vehicle accident if he left the scene and reported the accident at the nearest police station.

AFFIRMED.

Division One holds:

Regarding Mr. Scott’s first point, this court finds that, given the purpose of § 577.060.1, it is clear that present at the scene in the context of § 577.060.1 means that the owner of the vehicle or the police officer was at the scene at the time of the accident or shortly thereafter. Instruction No. 5’s use of the phrase “shortly thereafter” does not conflict with the substantive law embodied in § 577.060.1.

Regarding Mr. Scott’s second point, this court holds that a defendant can avail himself of the option of going to the nearest police station only if he first stopped at the scene to determine if the victim or the police were at the scene and could receive his information. The evidence in this case established that Mr. Scott did not stop at the scene to determine if the victim or the police could receive his information. Thus, the circuit court was correct in refusing to add his suggested language into the instruction.

Opinion by: Thomas H. Newton, C. J.

February 10, 2009

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