

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

**STATE OF MISSOURI,
RESPONDENT,**

v.

**MICHAEL ALLEN DUFF,
APPELLANT.**

**DOCKET NUMBER WD69598
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: MARCH 3, 2009

**Appeal From:
CHARITON COUNTY CIRCUIT COURT
THE HONORABLE GARY E. RAVENS, JUDGE**

**Appellate Judges:
DIVISION TWO: HARDWICK, P.J., HOWARD and DANDURAND¹, JJ.**

**Attorneys:
SCOTT CAMERON HAMILTON, ESQ., LEXINGTON, MO, for appellant.**

**JEREMIAH W. (JAY) NIXON, and SHAUN J. MACKELPRANG, ESQ.,
JEFFERSON CITY, MO, for respondent.**

¹ Judge Dandurand was a member of this court at the time the case was submitted, but has since resigned.

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

**STATE OF MISSOURI,
RESPONDENT,**

v.

**MICHAEL ALLEN DUFF,
APPELLANT.**

WD69598

Chariton County

Before Division Two Judges: HARDWICK, P.J., HOWARD and DANDURAND², JJ.

Michael Allen Duff appeals from his convictions for distribution of a controlled substance, possession of a controlled substance with intent to distribute, and possession of a controlled substance. He contests the sufficiency of the evidence supporting his convictions and alleges the court violated his right against double jeopardy by convicting him of both possession of a controlled substance with intent to distribute and possession of a controlled substance.

AFFIRMED.

Division Two holds: Evidence that Duff handled the money, made change, selected the baggie of marijuana, and vouched for its quality was sufficient to support the court's finding that Duff knowingly participated in distributing more than five grams of marijuana to a confidential informant. Duff's conviction for possession of marijuana with intent to distribute was supported by evidence of a strong odor of

² Judge Dandurand was a member of this court at the time the case was submitted, but has since resigned.

processed marijuana emanating through his home, his routine access to the place where the marijuana was found, the presence of a significant amount of divided and individually-wrapped baggies of marijuana, the presence of finger scales with the marijuana, and the intermingling of drugs and drug paraphernalia with his personal items. Duff's convictions for possession with intent to distribute and possession of a controlled substance did not violate his right against double jeopardy because the two convictions were based upon different conduct, different evidence, and different legal theories.

Opinion by: Lisa White Hardwick, Judge

March 3, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.