

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Appellant,

v.

PATRICK D. CONNELL,

Respondent.

DOCKET NUMBER WD72643

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: December 14, 2010

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce, Judge

APPELLATE JUDGES

Division Two: Mark D. Pfeiffer, Presiding Judge, and James Edward Welsh
and Karen King Mitchell, Judges

ATTORNEYS

Mark A. Richardson, Prosecuting Attorney for Cole County, Missouri
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Attorneys for Appellant,

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Attorney for Respondent.



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

STATE OF MISSOURI,)
)
)
Appellant,)
)
v.)
)
)
PATRICK D. CONNELL,)
)
)
Respondent.)

WD72643

Cole County

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, and James Edward Welsh and Karen King Mitchell, Judges

Patrick Connell was charged with possession of a controlled substance. Prior to trial he filed a motion to suppress the evidence because, he contended, the search which discovered the marijuana was illegal. The trial court denied the motion. Connell renewed the motion and it was denied a second time and the case went to trial. At trial, Connell did not object to the marijuana coming into evidence; however, in his closing argument, after the close of all evidence and after the State's closing argument, Connell again argued that the search which discovered the marijuana was illegal. After subsequent deliberations, the trial court agreed with Connell and issued a judgment in favor of Connell in which the trial court specifically concluded that the evidence in dispute should be "suppressed." The State appeals from a "Judgment" granting a "suppression of evidence" by the Circuit Court of Cole County.

DISMISSED.

Division Two holds:

The practical effect of the trial court's judgment was that the trial court, after hearing all of the evidence and argument of the parties, concluded – as a matter of law – that the State could not meet its burden of proving the crime charged and Connell was, thus, acquitted. Because we conclude that the trial court's "judgment" was a "judgment of acquittal" and not an "interlocutory suppression order," we lack authority to hear the State's "interlocutory" appeal and the same is dismissed. More importantly, we conclude that, in light of the trial court's

actions, jeopardy has attached, and this court does not have the authority to review the State's interlocutory appeal.

Opinion by: Mark D. Pfeiffer, Judge

December 14, 2010

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