

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Plaintiff/Respondent, )  
v. ) No. ED91239  
 ) Appeal from the Circuit Court  
 ) of the City of St. Louis  
ROBERT F. BROOM, Defendant/Appellant. ) Date: April 14, 2009

Defendant, Robert F. Broom, appeals from the judgment entered on a jury verdict finding him guilty of one count of robbery in the first degree, in violation of section 569.020 RSMo (2000). The trial court found him to be a persistent offender and sentenced him to ten years imprisonment.

AFFIRMED AS MODIFIED.

#### Division Four Holds:

1. A trial court may cure its error in failing to follow the Parker procedure at the time a Batson challenge is made by following the procedure at the time a motion for new trial is considered.
2. Trial court did not clearly err in denying defendant's Batson challenges.
3. Trial court did not commit plain error requiring reversal when it erroneously found that defendant was a persistent offender because it did not sentence defendant to an extended term.
4. However, we correct the judgment to change the "persistent offender" finding to a "prior offender" finding.

Opinion by: Kathianne Knaup Crane, P.J. Mary K. Hoff, J. and Kenneth M. Romines, J.,  
concur.

Attorney for Appellant: Gwenda R. Robinson

Attorney for Respondent: Richard A. Starnes

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