

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION ONE

STATE OF MISSOURI, Respondent,)	ED92172
)	Appeal from the Circuit Court of
v.)	the City of St. Louis
)	Hon. Robert H. Dierker, Jr.
LAVELL E. NYLON, Appellant.)	FILED: March 30, 2010

OPINION SUMMARY

Lavell Nylon (“Defendant”) appeals from the judgment entered upon a jury verdict convicting Defendant of drug trafficking in the second degree and resisting arrest. The trial court sentenced Defendant as a prior and persistent offender to consecutive terms of fifteen years for the drug offense and five years for resisting arrest. On appeal, Defendant claims the trial court erred in denying his motion for judgment of acquittal for the crime of resisting arrest, in overruling his *Batson*¹ challenges, and in denying his motions to suppress drug evidence and his statements to the police.

After Defendant filed this appeal, he filed a “Motion for Remand to the Trial Court for Reconsideration of Appellant’s Suppression Motions and/or New Trial Motion in Light of Newly Discovered Evidence” (“motion to remand”). Defendant has moved this Court to remand his case back to the trial court because he claims the trial court should be able to consider newly discovered evidence regarding the credibility of the State’s key witnesses against Defendant. This motion is denied.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART.

DIVISION ONE HOLDS:

The newly discovered evidence in this case does not support the exercise of our discretion in granting the extraordinary remedy of remanding this case to the trial court. The trial court erred in denying Defendant’s motion for judgment of acquittal because the State failed to present sufficient evidence from which a reasonable juror could have concluded that Defendant resisted arrest by fleeing. The trial court did not err in denying Defendant’s *Batson* challenges. Finally, the trial court did not err in denying Defendant’s motions to suppress drug evidence and post-arrest statements.

Opinion by: Nannette A. Baker, J.
Kathianne Knaup Crane, P.J. and Clifford H. Ahrens, J., concur.

Attorney for Appellant: Jessica Hathaway
Attorney for Respondent: Shaun Mackelprang and Richard Starnes

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**

¹ *Batson v. Kentucky*, 476 U.S. 86 (1987).