

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,) ED94384
)
Plaintiff/Appellant,) Appeal from the Circuit Court
) of Washington County
v.)
)
DUSTIN S. FERNOW,) Hon. David L. Hoven
)
Defendant/Respondent.) Filed: November 9, 2010

The State of Missouri appeals from the trial court’s judgment granting Dustin S. Fernow’s (Respondent) Motion to Dismiss for Failure to Charge an Offense, thereby dismissing the Information charging Respondent with the Class D felony of escape from custody in violation of Section 575.200.¹

AFFIRMED.

The Southern Division Holds: The trial court did not err in dismissing the Information as insufficient because (1) Respondent was not in custody pursuant to an arrest for burglary as the Information alleged, and (2) Respondent allegedly escaped while he was in custody for failure to appear at a probation revocation hearing, which did not constitute a crime under the version of Section 544.665 in effect at the time of his failure to appear.

Opinion by: Sherri B. Sullivan, J. Mary K. Hoff, P.J., and Nannette A. Baker, J., concur.

Attorney for Appellant: Patrick L. King
Attorney for Respondent: Ellen H. Flottman

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 All statutory references are to RSMo 2008, unless otherwise indicated.