

OPINION SUMMARY
MISSOURI COURT OF APPEALS – EASTERN DISTRICT
DIVISION FIVE

STATE OF MISSOURI,)	No. ED95423
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
)	of Gasconade County
vs.)	090S-CR00133-01
)	
JAMES K. WILSON,)	Hon. Cynthia M. Eckelkamp
)	
Defendant/Appellant.)	FILED: July 12, 2011

James K. Wilson (Defendant) appeals from the judgment upon his conviction by a jury for one count of driving while intoxicated (DWI) in violation of Section 577.010, RSMo Cum. Supp. 2008,¹ and one count of resisting/interfering with arrest for a felony in violation of Section 575.150. The trial court sentenced Defendant to a term of twelve years for the DWI count, to be served consecutively to a term of four years for the resisting arrest count.

AFFIRMED IN PART, AND REVERSED AND REMANDED, IN PART.

Division Five Holds: (1) We reverse the trial court’s judgment with regard to Defendant being sentencing as a chronic offender because the sentencing violated Section 577.023; and (2) we affirm the trial court’s judgment with regard to the remaining two points because the jury’s verdict on the DWI count was supported by sufficient evidence and the prosecutor’s argument did not have a decisive effect on the outcome of the trial.

Opinion by: Mary K. Hoff, J.
Gary M. Gaertner, Jr., P.J. and Patricia L. Cohen, J., concur.

Counsel for Appellant: Kathleen G. Henry
Counsel for Respondent: Chris Koster, James B. Farnsworth

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 Cum. Supp. 2008, unless otherwise noted.