

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION THREE

STATE OF MISSOURI,	)	No. ED97678
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of Marion County
vs.	)	
	)	Honorable Rachel L. Bringer
MICHAEL PENNELL,	)	
	)	
Appellant.	)	FILED: April 30, 2013

Michael Pennell ("Defendant") appeals from the trial court's judgment, after a jury trial, convicting him of one count of the class B felony of distribution, delivery or sale of a controlled substance, in violation of Section 195.211, RSMo Cum. Supp. 2012. Defendant was sentenced to fifteen years of imprisonment.

AFFIRMED.

Division Three Holds: The trial court determined that the testifying police officers were credible, and this Court defers to its credibility determinations and factual findings that Defendant expressly waived his Miranda rights and voluntarily confessed to delivering drugs, by UPS, to Jake Humphrey on numerous occasions. Defendant's confession was not barred by the rule of corpus delecti because the corroborating circumstantial evidence, especially the intercepted package, independent of the confession, also tended to prove the offense by confirming the delivery of drugs to Jake Humphrey. The State's Exhibits 2, 3, and 4 were admissible based on a sufficient chain of custody, identification by Defendant, and no showing that the officers carried out their duties in bad faith or by tampering with the evidence in any way. Finally, the trial court did not err in submitting to the jury the verdict director for distribution of a controlled substance because it complied with the Missouri Approved Instructions and Notes on Use, and based on the clear evidence and argument at trial, any modification to the instruction did not misdirect, mislead or confuse the jury to result in prejudicial error.

Opinion by: Roy L. Richter, J.  
Robert G. Dowd, Jr., P.J., and Angela T. Quigless, J., concur

Attorneys for Appellant: Alexa Irene Pearson  
Attorneys for Respondent: Chris Koster, Jessica P. Meredith

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