

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**LYNN J. TRAMMELL,**

**APPELLANT,**

**v.**

**STATE OF MISSOURI,**

**RESPONDENT.**

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DOCKET NUMBER WD69084

DATE: MARCH 10, 2009

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Appeal From:  
DAVISS COUNTY CIRCUIT COURT  
THE HONORABLE DAREN LEE ADKINS, JUDGE

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Appellate Judges:  
Division Two: Dandurand, P.J., Lowenstein and Smart, JJ.

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Division  
Attorneys:  
MARGARET M. JOHNSTON, ESQ., COLUMBIA, MO, **for appellant.**

SHAUN J. MACKELPRANG, ESQ., and ROBERT BARTHOLOMEW, ESQ.,  
JEFFERSON CITY, MO, **for respondent.**

**MISSOURI APPELLATE COURT OPINION  
SUMMARY**

**COURT OF APPEALS -- WESTERN DISTRICT**

**LYNN J. TRAMMELL,**

**APPELLANT,**

**v.**

**STATE OF MISSOURI,**

**RESPONDENT.**

WD69084

Daviess County

Before Division Two Judges: Dandurand, P.J., Lowenstein and Smart, JJ.

Lynn Trammell was arrested and charged with resisting arrest. The State agreed to provide the court with a non-binding recommendation in exchange for Trammell's guilty plea. In accordance with the agreement, Trammell pled guilty to resisting arrest, section 575.150. The trial court accepted Trammell's guilty plea but decided not to follow the State's sentencing recommendation. Prior to accepting Trammell's guilty plea, the trial court did not clearly and specifically advise Trammell that he would not be permitted to withdraw his guilty plea if the court decided not to follow the State's recommendation. Trammell filed a Rule 24.035 motion to vacate, set aside, or correct the judgment or sentence. The trial court denied the motion, and Trammell appeals. Trammell contends that the trial court erred in denying his Rule 24.035 motion because the court failed to advise him that he would not be permitted to withdraw his guilty plea if the court decided not to follow the State's recommendation, and, therefore, his plea was unknowingly made in violation of his right to due process.

**REVERSED AND REMANDED FOR FURTHER PROCEEDINGS. .**

**Division Two holds:**

The trial court erred in denying Trammell's Rule 24.035 motion because the court failed to clearly and specifically advise him, prior to accepting the guilty plea, that he would not be permitted to withdraw his guilty plea if the court decided not to follow the State's recommendation.

The trial court's judgment is reversed, and the case is remanded for further proceedings.

Opinion by: Harold L. Lowenstein, Judge

March 10, 2009

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