

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI, APPELLANT,

v.

COLE M. HENRY, RESPONDENT.

DOCKET NUMBER WD69978

DATE: June 16, 2009

Appeal From:
COLE COUNTY CIRCUIT COURT
THE HONORABLE PATRICIA S. JOYCE, JUDGE

Appellate Judges:
Division Three: James M. Smart, Jr., P.J., Joseph M. Ellis and James E. Welsh, JJ.

Attorneys:
Mark A. Richardson and Cheryl C. Nield, Jefferson City, MO, **for appellant.**

Clifford W. Cornell, Jefferson City, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI, APPELLANT

v.

COLE M. HENRY, RESPONDENT

WD69978

COLE COUNTY CIRCUIT COURT

Before Division Three Judges: James M. Smart, Jr., P.J., Joseph M. Ellis and James E. Welsh, JJ.

Jefferson City police searched the apartment of Cole Henry pursuant to a warrant obtained after information was supplied to police by an identified informant. Henry was charged with the class A felony of possession of a controlled substance (marijuana) with intent to distribute, charging him as a prior offender and a prior drug offender. Henry filed a motion to suppress evidence claiming that the search warrant issued in his case was improper. He claimed that the warrant was in improper form and unsupported by probable cause and that the affidavit was lacking in probable cause and could not be relied upon in good faith. Following a hearing and after the parties filed suggestions in support of and in opposition to the motion to suppress, the trial court granted the motion to suppress. The State appeals.

REVERSED AND REMANDED

Division Three holds:

Looking at the four corners of the warrant application and the supporting affidavits and applying the principle that a reviewing court should not quash a warrant by construing it in an overly technical, rather than in a common-sense, manner, this court cannot say that the warrant-issuing judge clearly erred in initially determining, based on the totality of the circumstances, that probable cause existed.

Opinion by James M. Smart, Jr., Judge

June 16, 2009

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