

DOCKET NUMBER WD70481  
**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: January 19, 2010

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**STATE OF MISSOURI, APPELLANT,**

**v.**

**CONRAD KRUSE, JR., RESPONDENT.**

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Appeal From:  
PETTIS COUNTY CIRCUIT COURT  
THE HONORABLE ROBERT LAWRENCE KOFFMAN, JUDGE

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Appellate Judges:  
Division One: Lisa White Hardwick, P.J., James M. Smart, Jr., and Alok Ahuja, JJ.

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Attorneys:  
Shaun J. Mackelprang and Jayne T. Woods, Asst. Attorney General, Jefferson City, MO,  
**for appellant.**

Laurie S. Ward, Sedalia, MO, **for respondent.**

**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, APPELLANT**

**v.**

**CONRAD KRUSE, JR., RESPONDENT**

WD70481

PETTIS COUNTY CIRCUIT COURT

Conrad Kruse was charged with two counts of possession of a controlled substance, one count of first-degree trafficking, one count of unlawful use of drug paraphernalia, one count of possession of a methamphetamine, and one count of possession of a methamphetamine precursor with intent to manufacture methamphetamine. Kruse filed a motion to suppress physical evidence resulting from the search of his home and storage shed. After a hearing, the motion was granted. The State appeals.

**AFFIRMED.**

**Division One holds:**

The trial court was not clearly erroneous in finding that there was an expectation of privacy in the backyard where: (1) the officers arrived at the Kruse residence after midnight; (2) no exterior lights were on to welcome the public to come on the premises; (3) the entrance to the residence is in the front yard; (4) the “no trespassing” signs would ordinarily be understood to assert a privacy interest on the entire property; (5) the back yard could not be seen from the road and was not in plain view; and (6) the back yard and backdoor were enclosed by trees on three sides and the home on the fourth side.

The trial court was not clearly erroneous in finding there was no exigency where: (1) the officers went into the back yard before trying the front door; (2) the officers did not fear present danger or present destruction of evidence; (3) Beel was presumably unaware of police presence, and his van was essentially immobile; (4) prior to the police entry into the back yard, Beel had no motive to flee or destroy evidence; (5) the police acknowledged that the situation did not call for immediate action; (6) the officers had time to seek a warrant to search for Beel; and (7) in the unlikely case the warrant were denied, the officers still could have come back and knocked on the front door to ask about Beel.

**Opinion by: James M. Smart, Jr., Judge**

January 19, 2010

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