



**In the Missouri Court of Appeals  
Eastern District  
DIVISION FOUR**

TODD WILEY,	)	No. ED96782
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	10SL-CC02913
	)	
STATE OF MISSOURI,	)	Honorable Maura B. McShane
	)	
Respondent.	)	Filed: March 20, 2012

**OPINION SUMMARY**

Todd Wiley appeals the judgment dismissing his Rule 24.035<sup>1</sup> motion for post-conviction relief as untimely filed.

REVERSED AND REMANDED.

Division Four holds: The motion court clearly erred in dismissing Wiley's Rule 24.035 motion for post-conviction relief as untimely filed because Wiley alleged circumstances which, if proven, would justify the late filing of his motion. Because the motion court did not hear evidence as to whether the late filing of Wiley's motion was justified due to circumstances beyond Wiley's control, the judgment dismissing Wiley's Rule 24.035 motion as untimely filed is reversed and the cause is remanded. On remand, the motion court shall determine whether the late filing of Wiley's motion was justified and proceed accordingly.

Opinion by: Glenn A. Norton, J. Patricia L. Cohen, P.J., and Robert M. Clayton III, J., concur

Attorney for Appellant: Jessica M. Hathaway

Attorney for Respondent: Chris Koster, Attorney General and  
Karen L. Kramer, Assistant Attorney General

**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.**

<sup>1</sup> All references to Rules are to Missouri Supreme Court Rules (2011).