MISSOURI COURT OF APPEALS
WESTERN DISTRICT

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

STATE OF MISSOURI,	)
	)
Appellant,	)
v.	)
	)
JEFFREY LUKE MOAD,	)
	)
Respondent.	)

No. WD 70527 Cole County

Before Division Two Judges: Victor C. Howard, P.J., and Joseph M. Ellis and Mark D. Pfeiffer, JJ.

The State appeals from an order of the Circuit Court of Cole County sustaining defendant Jeffrey Moad's motion to dismiss or, in the alternative, to suppress all evidence related to the car involved in Moad's charged crime of vehicular manslaughter. At issue was whether the Missouri Highway Patrol's release of evidence prior to giving the defendant an opportunity to test the evidence was a violation of his due process rights. There was never any argument that the evidence, in the first instance, was illegally obtained by the Missouri Highway Patrol. The central dispute revolved around the State's failure to produce relevant policies relating to evidence disposal after numerous orders by the trial court to do so.

DISMISSED.

Division Two holds:

Because we find that the evidence in question was not illegally obtained and that the trial court's order was a discovery sanction and not a suppression of evidence, the State lacks a statutory basis for this interlocutory appeal; consequently, the appeal is not properly before this court. The proper remedy to contest the trial court's interlocutory order is a writ of prohibition. The appeal is dismissed.

Opinion by: Mark D. Pfeiffer, J. September 29, 2009

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.