

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

TIMOTHY BOWERS,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD72159

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: January 25, 2011

APPEAL FROM

The Circuit Court of Daviess County, Missouri
The Honorable Brad Funk, Judge

APPELLATE JUDGES

Division One: Mark D. Pfeiffer, Presiding Judge, and Thomas H. Newton
and Alok Ahuja, Judges

ATTORNEYS

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

TIMOTHY BOWERS,)
)
) **Appellant,**)
v.)
)
STATE OF MISSOURI,)
)
) **Respondent.**)

WD72159

Daviess County

Before Division One Judges:

Mark D. Pfeiffer, Presiding Judge, and
Thomas H. Newton and Alok Ahuja, Judges

Timothy Bowers appeals from the judgment of the Circuit Court of Daviess County denying his Rule 24.035 motion. On appeal, Bowers argues that the motion court erred in concluding that the circuit court that granted probation to Bowers in 2004 retained jurisdiction in 2008 to revoke his probation and to order the execution of his previously imposed sentence of seven years. We disagree and affirm.

AFFIRMED.

Division One holds:

In 2002, Bowers pled guilty to a felony, received a suspended imposition of sentence, and was placed on probation. Two years later, in 2004, Bowers admitted violating the terms of his probation. At that time, his original term of probation was revoked, a sentence of seven years was imposed, execution of the sentence was suspended, and the trial court ordered a new term of probation. However, the trial court did not issue a signed judgment but, instead, only memorialized the proceeding in a docket entry. In 2008, Bowers again admitted violating the terms of his probation. Bowers's probation was revoked and the trial court ordered his sentence executed.

In his single point on appeal, Bowers argues that because the first probation revocation and corresponding docket entry in 2004 did not result in a valid "judgment" pursuant to

Rule 29.07(c), no conviction, sentence, or second term of probation was technically imposed, and instead, the circuit court's docket entry of May 10, 2004, was a nullity. Bowers contends that the trial court's jurisdiction had expired prior to the 2008 probation revocation hearing in which the trial court ordered his sentence to be executed.

The trial court's 2004 docket entry did not conform to the procedural requirements for a final judgment that would enable this court to hear an appeal. However, the failure of a trial court to issue a formal signed judgment does not invalidate the judgment. Thus, while the judgment of conviction from May 10, 2004, may not have been in the form as required by the rules for an appeal therefrom, its form did not affect or impair the validity of the judgment. Likewise, the form of the judgment of conviction did not affect or impair the authority of the circuit court to order a second term of probation on May 10, 2004. Accordingly, the trial court was authorized in June of 2008 to revoke the probation ordered in 2004 and was similarly authorized to order Bowers's sentence to be executed.

The judgment below is affirmed.

Opinion by: Mark D. Pfeiffer, Judge

January 25, 2011

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