

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
ARTHUR W. BROWN**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD75623

DATE: July 23, 2013

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Appeal From:

Jackson County Circuit Court  
The Honorable Edith Messina, Judge

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Appellate Judges:

Division Three: Lisa White Hardwick, Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin, Judge

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Attorneys:

Daniel N. McPherson, Jefferson City, MO, for respondent.

Frank A. Conard, St. Peters, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**v.**

**ARTHUR W. BROWN,**

**RESPONDENT,**

**APPELLANT.**

No. WD75623

Jackson County

Before Division Three: Lisa White Hardwick, Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin, Judge

Arthur Brown appeals from a judgment denying motions filed by Brown in 2011 and 2012 which sought to set aside Brown's September 7, 1990 criminal conviction of the unclassified felony of forcible rape. Brown claimed the trial court lost jurisdiction to enter a judgment of conviction after it permitted the State to amend its information.

**AFFIRMED**

Division Three holds:

1. The judgment denied Brown's motion on its merits, and alternatively granted the State's motion to dismiss because the relief sought by Brown was procedurally defaulted and should have been pursued via direct appeal or a timely filed Rule 29.15 motion. Brown does not claim error on appeal with respect to the motion court's grant of the State's motion to dismiss.

2. It is the appellant's burden on appeal to demonstrate that the trial court's judgment was incorrect on any basis supported by the record and the applicable law. Failure to challenge a finding and ruling that would support the conclusion complained about is fatal to an appeal.

3. We observe, *ex gratia*, that the trial court did not err in granting the State's motion to dismiss. The trial court had subject matter jurisdiction over Brown's criminal proceedings. The concept of "subject matter jurisdiction" argued by Brown in his motion is the concept of "jurisdictional competence," which our Supreme Court has held is nothing more than trial court error.

4. Brown's claim that the trial court exceeded its power expressed in Rule 23.08 and section 545.300 had to be raised in Brown's direct appeal from the September 7, 1990 judgment of conviction, or in a timely Rule 29.15 motion.

Opinion by Cynthia L. Martin, Judge

July 23, 2013

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