

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI,
RESPONDENT**

vs.

**WAYNE CLIFTON JOHNSON,
APPELLANT**

DOCKET NUMBER WD76391

DATE: DECEMBER 10, 2013

Appeal from:

The Circuit Court of Moniteau County, Missouri
The Honorable Donald L. Barnes, Judge

Appellate Judges:

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

Attorneys:

Jennifer Rodewald, for Respondent

Wayne Clifton Johnson, Appellant Pro-se

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI, RESPONDENT

v.

WAYNE CLIFTON JOHNSON, APPELLANT

WD76391

Moniteau County, Missouri

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

Wayne Johnson appeals from the Circuit Court of Moniteau County's denial of his petition challenging on double jeopardy grounds the authority of that court to have entered his convictions and sentences on one count of assault of a law enforcement officer in the second degree, § 565.081, and one count of armed criminal action, § 571.015.

VACATED AND REMANDED.

Division Two holds:

(1) The claims asserted in Appellant's petition could have been raised in the plea court, in a direct appeal, or in a timely Rule 24.035 motion but they were not; the claims are, therefore, time-barred. Accordingly, the circuit court lacked the authority to grant the post-conviction relief requested by Appellant, and the petition should have been dismissed without addressing the merits of Appellant's claims. The judgment is, therefore, vacated and the cause remanded with instructions to dismiss Appellant's petition.

Opinion by Joseph M. Ellis, Judge

Date: December 10, 2013

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