

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CITY OF KANSAS CITY, MISSOURI,

Appellant

v.

KEVIN GARNETT.

Respondent

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DOCKET NUMBER WD78667

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: March 8, 2016

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable Mary Frances Weir, Judge

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Appellate Judges:

Division Three  
James Edward Welsh, P.J., Joseph M. Ellis, Sr. J., and Thomas H. Newton, JJ.

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Attorneys:

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Counsel for Appellant  
Co-Counsel for Appellant

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Attorneys:

Kevin Garnett, Kansas City, MO

Respondent Acting Pro Se

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

**CITY OF KANSAS CITY, MISSOURI, Appellant, v.  
KEVIN GARNETT, Respondent**

**WD78667**

**Jackson County**

Before Division Three Judges: Welsh, P.J., Ellis, Sr.J., and Newton, JJ.

The City of Kansas City, Missouri, appeals the circuit court's judgment in its lawsuit against Kevin Garnett for the collection of delinquent city earnings taxes, penalties, and interest. Following a bench trial, the circuit court found that Garnett was a resident of the City and, thus, subject to city earnings tax. The court entered judgment in favor of the City for the principal amount of tax due but declined to impose a penalty or interest on the basis that Garnett's failure to pay "was not wanton or unreasonable." The City contends that the circuit court erred in not imposing penalties and interest, as required by the plain language of the applicable ordinance.

**Affirmed in part, reversed in part, and remanded in part.**

**Division Three holds:**

Section 68-394(a) of the City's Code of Ordinances sets forth the amount of penalties and interest due on any unpaid city earnings taxes. Section 68-395(8) allows the City's director of finance to "waive all or any portion" of those penalties "where the taxpayer shows the nonpayment was due to reasonable cause." The circuit court did not err in concluding that the City's ordinances gave it the discretion to waive Garnett's penalty based on its finding that his failure to pay taxes was not unreasonable. Section 68-395(8) specifically makes the imposition of interest under Section 68-394(a) mandatory. Thus, the circuit court's failure to impose interest was a misapplication of the law. The court's decision to waive the penalty is affirmed. The decision not to impose interest is reversed and remanded with instructions for the circuit court to enter judgment for the City for the amount of taxes due with interest thereon, pursuant to applicable City ordinances.

Opinion by James Edward Welsh, Presiding Judge

March 8, 2016

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