



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

DERRICK JONES,)	
)	
)	Appellant,
v.)	WD70785
)	
)	OPINION FILED:
)	April 13, 2010
STATE OF MISSOURI,)	
)	
)	
)	
Respondent.)	

**Appeal from the Circuit Court of Jackson County, Missouri
The Honorable Jack R. Grate, Jr., Judge**

Before Division III: James Edward Welsh, Presiding Judge, and
Mark D. Pfeiffer and Karen King Mitchell, Judges

On December 23, 2005, the Appellant Derrick Jones filed a pro se motion for post-conviction relief under Missouri Supreme Court Rule 29.15 in the Circuit Court of Jackson County (“circuit court”). On September 26, 2007, Jones filed a Motion for Leave of Court to File Out of Time 29.15 Post-Conviction Relief Motion for Cause (“Motion for Leave”). On September 9, 2008, the circuit court took up and denied the Motion for Leave.

Although the circuit court delineated its September 9, 2008 order a “Judgment,” upon review of the record, it appears that the circuit court has not entered a final order or a final judgment on Jones’s December 23, 2005 Rule 29.15 motion. Absent an appealable final judgment or order, we lack appellate jurisdiction. Rule 81.04(a) (“No . . . appeal shall be

effective unless the notice of appeal shall be filed not later than ten days after the judgment or order appealed from becomes final.”); Rule 74.01; *State v. Saffaf*, 81 S.W.3d 526, 527 (Mo. banc 2002).

Accordingly, we dismiss this appeal for lack of jurisdiction.¹

Karen King Mitchell, Judge

James Edward Welsh, Presiding Judge, and
Mark D. Pfeiffer, Judge, concur.

¹ This issue remains jurisdictional, post *Webb ex rel. J.C.W. v. Wyciskalla*, 275 S.W.3d 249 (Mo. banc 2009). While the Missouri Constitution grants the courts jurisdiction over civil actions (including post-conviction cases), it clearly contemplates both original and appellate jurisdiction, see MISSOURI CONSTITUTION, article V, sections 3 & 14, and it gives our Supreme Court power to “establish rules relating to practice, procedure and pleading for all courts and administrative tribunals, which shall have the force and effect of law.” MO. CONST. art. V, § 5. Supreme Court rules delineating the procedures for when and how trial court jurisdiction ends and appellate jurisdiction begins do not violate the Constitution or run afoul of the Supreme Court’s holding in *Webb. City of Greenwood v. Martin Marietta Materials, Inc.*, No. WD70495, 2010 WL 431369, at *7, 2010 Mo. App. LEXIS 133, at *21-22 (Mo. App. W.D. Feb. 9, 2010).