

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION FOUR**

AMINADAB JOHNSON,	)	No. ED101154
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	1222-CC10557
	)	
STATE OF MISSOURI,	)	Honorable Thomas C. Grady
	)	
Respondent.	)	Filed: October 21, 2014

Aminadab Johnson appeals the judgment denying his Rule 24.035 motion for post-conviction relief. Johnson asserts the motion court clearly erred in denying his claim that the written sentence and judgment imposing a twelve-year sentence on Count II (class C felony stealing) is erroneous because it does not reflect the trial court’s oral pronouncement of a six-month sentence on that count.

REVERSED, SENTENCE ON COUNT II VACATED, AND REMANDED FOR RESENTENCING AS TO COUNT II ONLY.

Division Four holds: The trial court’s formal oral pronouncement is ambiguous and erroneous because the trial court incorrectly referred to Count II as a “misdemeanor.” Additionally, the trial court’s intended oral sentence for Count II cannot be unambiguously ascertained from the record. Because the record indicates it is possible that the trial court relied on its own misstatement that Count II was a misdemeanor and that the court was under the mistaken belief about the nature of Count II when it orally sentenced Johnson to six months on that count, the appropriate remedy in this case is to remand for resentencing on Count II.

Opinion by: Robert M. Clayton III, J.  
Patricia L. Cohen, P.J., and Roy L. Richter, J., concur.

Attorney for Appellant: Gwenda Renee’ Robinson

Attorneys for Respondent: Chris Koster and Todd T. Smith

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**