



# In the Missouri Court of Appeals Eastern District

## DIVISION ONE

STATE OF MISSOURI,	)	No. ED99415
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	
	)	Honorable Steven R. Ohmer
GROVER D. GIBBS,	)	
	)	
Appellant.	)	FILED: November 12, 2013

Grover D. Gibbs ("Defendant") appeals from the trial court's judgment denying his writ of habeas corpus and Rule 24.035 motion regarding his probation revocation.

**DISMISSED IN PART; REMANDED IN PART WITH INSTRUCTIONS.**

Division One Holds: Because "[a]n appeal does not lie from the denial of a petition for a writ of habeas corpus," Bromwell v. Nixon, 361 S.W.3d 393, 397 (Mo. banc 2012) (citing Blackmon v. Mo. Bd. of Prob. & Parole, 97 S.W.3d 458, 458 (Mo. banc 2003)), we dismiss Defendant's appeal from the motion court's denial of Defendant's writ of habeas corpus. Further, Defendant waived his right to proceed under Rule 24.035 because his motion was untimely filed seven months after his initial delivery into the custody of the Department of Corrections, rather than within the required 180 days. Rule 24.035(b). We vacate the trial court's denial of the Rule 24.035 motion and remand to the trial court with instructions to dismiss the post-conviction motion as untimely.

Opinion by: Roy L. Richter, P.J.  
Clifford H. Ahrens, J., and Glenn A. Norton, J., concur.

Attorneys for Appellant: James A. Stemmler  
Attorneys for Respondent: CHRIS KOSTER, Stephen D. Hawke

**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.**