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**COMPLETE TITLE OF CASE:**

**STATE OF MISSOURI,**

**v.**

**DAWUD ABDELMALIK,**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD67828  
**MISSOURI COURT OF APPEALS**  
**WESTERN DISTRICT**

DATE: OCTOBER 31, 2008

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Appeal From:  
JACKSON COUNTY CIRCUIT COURT  
THE HONORABLE JOHN M. TORRENCE, JUDGE

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Appellate Judges:  
DIV III: ELLIS, P.J., HARDWICK and DANDURAND, JJ

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Attorneys:  
LAURA G. MARTIN, ESQ., KANSAS CITY, MO, **for appellant.**

SHAUN J. MACKELPRANG, ESQ., JEFFERSON CITY, MO, **for respondent.**

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

STATE OF MISSOURI,

RESPONDENT,

v.

DAWUD ABDELMALIK,

APPELLANT

WD67828

Jackson County

Before: Division Three Judges: Ellis, P.J., Hardwick and Dandurand, JJ.

Dawud Abdelmalik appeals from his jury conviction for capital murder. He contends: (1) the DNA evidence is insufficient to support his conviction; and (2) the circuit court plainly erred in allowing a second trial after the first trial resulted in a mistrial.

**AFFIRMED.**

**Division Three holds:**

(1) The DNA evidence is sufficient to support the guilty verdict because it was found in a location, quantity, and type inconsistent with casual contact and expert testimony established a one in one quintillion likelihood that someone other than the defendant was the source of the DNA material.

(2) The circuit court properly ordered a retrial because the defendant failed to show that the original mistrial was due to purposeful misconduct by the prosecutor.

**Opinion by: Lisa White Hardwick, Judge**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**