

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

**IN THE INTEREST OF: K.B.C., APPELLANT,
v.
JUVENILE OFFICER, RESPONDENT.**

No. WD 68750

Jackson County

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

K.B.C., a juvenile, appeals an adjudication assuming jurisdiction over him under section 211.031, RSMo. He was found to have committed acts which, were he an adult, would have constituted second degree burglary and stealing in connection with the breaking into and taking items from a vending machine at his middle school. At trial, two witnesses testified that they saw K.B.C. on a video recording of the break in. However, no such recording was produced.

REVERSED AND REMANDED.

Division Three holds:

The testimony of the two witnesses violates the Best Evidence Rule because the video recording could have been produced but was not. The Rule was violated because the witnesses had no knowledge of the identity of the perpetrator besides that gained by watching the recording, and their testimony prejudiced the outcome of the case.

Opinion by: Ronald R. Holliger, Judge

Date: November 4, 2008

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