

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

MATTHEW B. ANDREWS,

Appellant

v.

STATE OF MISSOURI.

Respondent

DOCKET NUMBER WD69603

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 10, 2009

Appeal From:

Circuit Court of Platte County County, MO
The Honorable Owens L. Hull, Jr., Judge

Appellate Judges:

Division Three: James M. Smart, Jr., P.J., Joseph M. Ellis, and James Edward Welsh, JJ.

Attorneys:

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Counsel for Appellant,

Attorneys:

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Counsel for Respondent

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Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**MATTHEW B. ANDREWS, Appellant, v.
STATE OF MISSOURI, Respondent**

WD69603

Platte County

Before Division Three Judges: Smart, P.J., Ellis, and Welsh, JJ.

In his sole point on appeal, Matthew B. Andrews claims that the circuit court erred in overruling his Rule 24.035 motion because the record conclusively established that, when the circuit court revoked his probation on March 15, 2007, his probationary period had already ended on December 3, 2006, and that the circuit court's order extending his probation was void. Andrews claims that the circuit court's order, which it entered on October 31, 2006, extending his probation was void because, in violation § 559.036 and his due process rights, the circuit court extended his probation (1) even though there was no pending probation violation in front of it, and (2) without giving Andrews notice and a hearing.

AFFIRMED.

Division Three holds:

This court finds that, under the plain and ordinary wording of § 559.036, nothing prohibited the circuit court from extending Andrews's probation even though there was no pending probation violation and he was not given a hearing. Furthermore, this court finds, based on *Ockel v. Riley*, 541 S.W.2d 535 (Mo. banc 1976), that nothing in the Due Process Clause prohibits a circuit court from extending a defendant's probation even though there is no pending probation violation in front of it. Under the existing law, therefore, the circuit court had the authority to extend Andrews's probation even though there was no pending probation violation and without granting Andrews a hearing before it extended his probation.

Opinion by: James Edward Welsh, J.

March 10, 2009

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