

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

JOHN DAVID JONES.

Appellant

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DOCKET NUMBER WD69994

DATE: December 15, 2009

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Appeal From:

Circuit Court of Boone County, MO  
The Honorable Clifford Eugene Hamilton, Jr., Judge

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Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Victor C. Howard, and James Edward Welsh, JJ.

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Attorneys:

Rosalynn Koch, Columbia, MO

Counsel for Appellant,

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Attorneys:

Shaun J. Mackelprang, Jefferson City, MO

Counsel for Respondent

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

**STATE OF MISSOURI, Respondent, v.  
JOHN DAVID JONES, Appellant**

WD69994

Boone County

Before Division Two Judges: Ellis, P.J., Howard, and Welsh, JJ.

John David Jones appeals his conviction, after a jury trial, for domestic assault in the second degree and kidnapping. He requests plain error review of his claims that the circuit court abused its discretion in excluding certain evidence and that the circuit court abandoned its duty of neutrality in injecting itself into the proceedings.

**AFFIRMED.**

**Division Two holds:**

(1) Jones failed to make an offer of proof when the circuit court excluded from evidence a defense exhibit documenting Jones's paychecks. Moreover, the evidence Jones sought to establish with the exhibit, that victim had attempted to cash his paycheck, came in through the testimony of his employer's bookkeeper. Jones cannot, on the face of the claim, establish prejudice much less manifest injustice. We, therefore, decline plain error review.

(2) The circuit court did not plainly err when it *sua sponte* asked defense counsel why he was writing certain statements on a board during his cross-examination of the victim. The circuit court's *sua sponte* action in preventing Jones from publishing to the jury statements not in evidence was a reasonable action within the scope of the court's discretion and was necessary to prevent confusion of the issues. Moreover, Jones cannot show that the circuit court's action created a manifest injustice because the inconsistent statements came into evidence with the testimony of the police officers to whom the statements were made.

**Opinion by: James Edward Welsh, Judge**

December 15, 2009

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