

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, ex rel. CHRIS KOSTER,**

**Relator,**

**v.**

**THE HONORABLE RANDALL R. JACKSON,**

**Respondent.**

---

**DOCKET NUMBER WD71165  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**Date: January 26, 2010**

---

Appeal from:  
Buchanan County Circuit Court  
The Honorable Randall R. Jackson, Judge

---

Appellate Judges:  
Writ Division: Lisa White Hardwick, Presiding Judge, Joseph M. Ellis and Alok Ahuja, Judges

---

Attorneys:  
Andrew W. Hassell, Esq., Jefferson City, MO, for appellant.  
S. Kate Webber, Esq., Kansas City, MO, for respondent.

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

**STATE OF MISSOURI, ex rel. CHRIS KOSTER**

**Relator,**

**v.**

**THE HONORABLE RANDALL R. JACKSON,**

**Respondent.**

WD71165

Buchanan County

Before Writ Division Judges: Lisa White Hardwick, Presiding Judge, Joseph M. Ellis and Alok Ahuja, Judges

The State of Missouri seeks to quash a writ of habeas corpus granted to Craig Mitchell based on the circuit court's finding that he was improperly sentenced as a persistent offender. The State contends the circuit court exceeded its authority in granting habeas relief because Mitchell procedurally defaulted on his sentencing claim by failing to raise it in a Rule 24.035 motion for post-conviction relief.

**AFFIRMED.**

**Writ Division holds:** Although Mitchell did not challenge his sentence in a post-conviction proceeding, he overcame the procedural default by demonstrating that his sentence exceeded the statutory maximum. Mitchell is entitled to habeas relief because he was improperly sentenced as persistent offender based on the Missouri Supreme Court's recent clarification of the sentencing law in *Turner v.*

*State*, 245 S.W.3d 826 (Mo. banc 2008). The judgment of the circuit court is affirmed.

Opinion by: Lisa White Hardwick, Judge

January 26, 2010

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