

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

KEVIN D. BARNES,

Appellant,

v.

MISSOURI DEPARTMENT OF CORRECTIONS,

Respondent.

DOCKET NUMBER WD77440

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 21, 2015

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Daniel R. Green, Judge

JUDGES

Division One: Welsh, P.J., and Newton and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Laura G. Martin, District Defender
Kansas City, MO

Attorney for Appellant,

Chris Koster, Attorney General
Gregory M. Goodwin, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent.



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

KEVIN D. BARNES,)
)
) **Appellant,**)
 v.) **OPINION FILED:**
) **April 21, 2015**
 MISSOURI DEPARTMENT OF)
 CORRECTIONS,)
)
) **Respondent.**)

WD77440

Cole County

Before Division One Judges: James Edward Welsh, Presiding Judge, and Thomas H. Newton and Karen King Mitchell, Judges

Kevin Barnes appeals the grant of summary judgment in favor of the Missouri Department of Corrections (DOC) on his declaratory judgment action, which sought a declaration that he was entitled to 591 days of jail-time credit on his current four-year term of imprisonment arising out of Holt County.

AFFIRMED.

Division One holds:

1. To be entitled to jail-time credit under section 558.031, a person must meet three criteria: (1) he must have been in custody after the offense occurred and before the commencement of the sentence for that offense; (2) his time in custody must have been related to the offense for which he is seeking credit; and (3) he must not be subject to any of the applicable exceptions.
2. Section 559.100 is expressly listed as an exception to section 558.031 and takes precedence in a situation where the defendant seeks credit for any period of probation or parole as time served on a sentence.

3. Sections 558.031 and 559.100, when read together, provide that the sentencing court, not the department of corrections, determines whether credit should be given when probation is revoked.
4. Under section 559.100.2, MDOC has no authority to grant relief because only the sentencing court can award credit against a prison sentence for time spent on probation.
5. Because Barnes was on probation for the Holt County case during the time period for which he seeks credit, section 559.100 applies and “takes precedence” over the provisions of section 558.031 upon which Barnes relies. And because the trial court did not award Barnes any credit for the time he was on probation at the time of his revocation, it is beyond DOC’s authority to grant him credit for that time now.

Opinion by: Karen King Mitchell, Judge

April 21, 2015

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