

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

PAUL GARTH,	)	No. ED99533
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	
STATE OF MISSOURI,	)	Hon. Tom DePriest Jr.
	)	
Respondent.	)	FILED: October 22, 2013

Paul Garth (“Movant”) appeals from the judgment of the motion court that denied his motion for post-conviction relief pursuant to Rule 29.15 without an evidentiary hearing.

AFFIRMED.

DIVISION ONE HOLDS: (1) Appellate counsel was not ineffective for failing to raise on appeal the meritless claim that Movant was denied meaningful access to the courts because of purported lack of access to legal resources necessary to present a defense. The trial court offered Movant the assistance of two public defenders, but Movant, after extensive warning from the trial court about self-representation, repeatedly insisted on proceeding *pro se*. In addition, the trial court ordered that Movant have access to the law library of the St. Louis County Justice Center. Movant was not entitled to unlimited access to the best law library, but perforce had to share the resources of the available law library with other jail inmates. (2) Appellate counsel was not ineffective for failing to assert on appeal the claim that the State was permitted to habitually use leading questions to witnesses on direct examination, where such claim of error was not preserved, and there was no manifest injustice because Movant was not prejudiced. (3) Movant’s waiver of his right to testify was not rendered unknowing and involuntary by the trial court not informing Movant that he could testify in the narrative when acting *pro se*. The trial court informed Movant of his right to testify in his own defense, and the ability to testify in the narrative rather than responding to questions is implicit in a defendant proceeding *pro se*. Moreover, the trial court thoroughly advised Movant of the perils of proceeding *pro se*, including informing him that he would be held to the standards of an attorney, and repeatedly attempted to encourage Movant to accept legal assistance.

Opinion by: Clifford H. Ahrens, Judge Roy L. Richter, P.J., and Glenn A. Norton, J., concur.

Attorney for Appellant: Roxanna Allen Mason

Attorney for Respondent: Timothy Allan Blackwell

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