

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

ANTHONY CLAY,)	No. ED101831
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	1222-CC01953
)	
STATE OF MISSOURI,)	Honorable Thomas C. Grady
)	
Respondent.)	Filed: September 1, 2015

Anthony Clay (“Movant”) appeals the judgment denying his Rule 29.15¹ motion for post-conviction relief without an evidentiary hearing.

AFFIRMED.

Division Three holds:

- (1) Before addressing the merits of Movant’s appeal, we are compelled under *Moore v. State*, 458 S.W.3d 822 (Mo. banc 2015) to first determine whether Movant’s amended Rule 29.15 motion was timely filed. Since the file stamp shows Movant’s amended Rule 29.15 motion was filed on the date it was due, we conclude the motion was timely filed.
- (2) The motion court did not clearly err in denying Movant an evidentiary hearing on his claim that trial counsel was ineffective for failing to call Movant’s siblings as witnesses, because Movant’s Rule 29.15 motion did not allege facts establishing his siblings’ alleged testimony would have provided Movant with a viable defense.

Opinion by: Robert M. Clayton III, P.J.
Lawrence E. Mooney, J., and James M. Dowd, J., concur.

Attorney for Appellant: Kevin B. Gau
Attorneys for Respondent: Chris Koster, Evan J. Buchheim

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.

¹ All references to Rules are to Missouri Supreme Court Rules (2014).