

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

HAROLD MORSE,)	No. ED101919
)	
Appellant,)	Appeal from the Circuit Court
)	of St. Francois County
vs.)	
)	Honorable Sandra Martinez
STATE OF MISSOURI,)	
)	
Respondent.)	FILED: June 9, 2015

Appellant Harold Morse (“Morse”) appeals from the judgment of the motion court denying his Rule 29.15 motion for post-conviction relief without an evidentiary hearing. Following a jury trial, Morse was convicted of one count of concealing a prohibited item in a correctional facility. The trial court sentenced Morse as a prior and persistent offender to thirty years’ imprisonment. Morse’s conviction and sentence were affirmed on direct appeal by this Court in State v. Morse, 413 S.W.3d 387 (Mo. App. E.D. 2013). Morse subsequently filed a Rule 29.15 motion for post-conviction relief alleging ineffective assistance of appellate counsel, which the motion court denied without an evidentiary hearing. Morse now contends on appeal that the motion court clearly erred in denying his motion for post-conviction relief without an evidentiary hearing because appellate counsel rendered ineffective assistance of counsel by failing to raise, on direct appeal, a claim that the thirty-year sentence imposed by the trial court was excessive and retaliatory based on Morse’s decision to exercise his right to proceed to trial.

AFFIRMED.

Division III holds: Because appellate counsel was not ineffective for failing to raise a non-meritorious claim on direct appeal, we affirm the judgment of the motion court.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J., Concur.

Attorney for Appellant: Timothy Forneris

Attorney for Respondent: Chris Koster and Daniel McPherson

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.