

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

SONNY J. WHITE, Appellant,)	No. ED92081
)	
vs.)	Appeal from the Circuit Court of
)	Marion County
STATE OF MISSOURI, Respondent.)	Filed: August 11, 2009

OPINION SUMMARY

Sonny White (Movant) appeals from the judgment of the Circuit Court of Marion County denying his Rule 29.15 motion for post-conviction relief. Movant argues that the motion court clearly erred by finding that his trial counsel was not ineffective. Specifically, Movant contends that his counsel was ineffective for failing to move to strike a venireperson who stated that he could not be fair to Movant and who ultimately served on the jury.

REVERSED, VACATED, and REMANDED FOR A NEW TRIAL.

Division One Holds: The trial court erred in failing to find that Movant's trial counsel was ineffective where: (1) Movant's counsel failed to strike a venireperson who stated he could not be fair and who ultimately served on the jury; (2) neither Movant's counsel, prosecutor nor the trial court rehabilitated the venireperson through follow-up questions designed to elicit unequivocal assurances of impartiality; and (3) the record does not support a finding that Movant's counsel's inaction was the product of reasonable trial strategy. Given this record, we conclude that a reasonably competent attorney would have moved to strike the venireperson.

Opinion by: Patricia L. Cohen, J. Kurt S. Odenwald, P.J. and Glenn A. Norton, J., concur.

Attorney for Appellant: Mark A. Grothoff

Attorney for Respondent: Shaun J. Mackelprang

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