

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION FOUR

GENE WREN, Appellant,	)	No. ED93732
	)	
	)	Appeal from the Circuit Court
vs.	)	of Cape Girardeau County
	)	
STATE OF MISSOURI, Respondent.	)	Filed: June 15, 2010

Gene Wren (Movant) appeals from the motion court's denial, following an evidentiary hearing, of his amended Rule 29.15 motion for post-conviction relief. This Court affirmed Movant's convictions, following a jury trial, of leaving the scene of a motor vehicle accident, in violation of Section 577.060, RSMo 2000,<sup>1</sup> careless and imprudent driving, in violation of Section 304.012, and driving without a valid license, in violation of Section 302.020. State v. Wren, 276 S.W.3d 880 (Mo. App. E.D. 2009). We affirm the motion court's denial of Movant's claims of ineffective assistance of counsel.

AFFIRMED.

Division Four holds: We agree with the motion court that Trial Counsel made a reasonable strategic decision not to call Movant's wife (Wife) as a witness for several sound reasons. Here Trial Counsel's strategy explained during the evidentiary hearing was deliberate and logical. First, Wife could not provide an alibi because she could not testify that she was with Movant during the time the offenses took place, and she expressed doubt as to whether Movant committed the offenses. Further, Wife's testimony would have hindered Movant's defense because it would have placed Movant in close proximity to the crime scene, and Wife's general description matched that of Movant's getaway driver. Thus, we find that Trial Counsel's complete investigation into Wife's testimony and methodical decision not to call Wife as a witness was a matter of reasonable trial strategy. Movant's first point is denied.

Additionally, after reviewing the record, we find that Trial Counsel reasonably believed that introducing a letter to impeach witness testimony would hinder, not help Movant's defense. Trial Counsel testified that she thought the letter's statements suggested an invitation to provide false testimony to protect Movant, and that the letter would undermine defense efforts to impeach the credibility the witness testimony. Further, Trial Counsel explained that she decided not to impeach the witness with the letter to prevent the State from responding with damaging rebuttal evidence, and to avoid forcing her to present an alibi defense involving Wife. Trial Counsel made a strategic decision not to attempt to impeach the witness with the letter. Movant

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<sup>1</sup> All subsequent statutory references are to RSMo 2000, unless otherwise indicated.

here has not overcome the presumption that Trial Counsel's decision not to impeach White's testimony with the letter was a matter of trial strategy. Movant's second point is denied.

Opinion by: Kurt S. Odenwald, P.J.  
George W. Draper III, J., and Gary M. Gaertner, Jr., J., Concur

Attorney for Appellant: Gwenda Renee Robinson

Attorney for Respondent: Chris Koster and James B. Farnsworth

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