

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ROBERT LEGENDRE,)	No. ED93866
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable Donald Lang McCullin
STATE OF MISSOURI,)	
)	
Respondent.)	FILED: August 24, 2010

Robert Legendre (Legendre) appeals the denial of his Rule 24.035¹ amended motion for post-conviction relief without an evidentiary hearing.

REVERSED AND REMANDED.

Division Four Holds: The motion court clearly erred in denying Legendre an evidentiary hearing on his amended motion for post-conviction relief because the facts alleged in Legendre's motion, if true, raise sufficient concern regarding the voluntariness of his plea. Legendre claimed that his plea counsel misled him into believing that she had filed pre-trial motions to suppress evidence, and that he would not have pleaded guilty had he known Plea Counsel had not filed the motions. Because the facts alleged by Legendre are not refuted by the record, and if proven true could entitle Legendre to relief, the motion court clearly erred in failing to conduct an evidentiary hearing.

Opinion by: Kurt S. Odenwald, P.J. Robert G. Dowd, Jr., J. and Nannette A. Baker, J., concur.

Attorney for Appellant: Scott Thompson

Attorneys for Respondent: Chris Koster and James B. Farnsworth

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 Unless otherwise stated, all rule referenced are to Missouri Court Rules (2008).