

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

MICHAEL F. TRICE, ) No. ED95528  
 )  
 Appellant, )  
 )  
 v. ) Appeal from the Circuit Court of  
 ) the City of St. Louis  
 ) Cause No. 0722-CC08040  
 STATE OF MISSOURI, ) Honorable Phillip D. Heagney  
 )  
 Respondent. )  
 )  
 ) Filed: June 28, 2011

Michael F. Trice, Appellant, appeals the judgment of the Circuit Court, City of St. Louis. The circuit court considered Appellant’s *pro se* Rule 29.15 motion alleging ineffective assistance of post-conviction counsel timely filed and rejected the motion on the merits.

REVERSED.

DIVISION ONE HOLDS: The circuit court erred in considering Appellant’s *pro se* motion timely filed. Rule 29.15(b) allows 90 days within which Appellant was required to file his motion. Appellant’s motion was filed outside the 90 day requirement and its untimeliness was not caused by exceptional circumstances outside of Appellant’s control. This Court reverses and remands with directions to dismiss Appellant’s motion as untimely filed.

Opinion by: Kenneth M. Romines, J.  
Roy L. Richter, C.J. and Kenneth F. Thompson, Sp.J. concur.

Attorneys for Appellant: Scott Thompson

Attorneys for Respondent: Karen L. Kramer

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