

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

EARL B. WILLIAMS,) ED96605
)
Appellant,) Appeal from the Circuit Court
) of the City of St. Louis
v.) 1022-CC10120
)
STATE OF MISSOURI,)
)
Respondent.) Honorable John C. Riley
) Filed: June 12, 2012

Earl Williams (Movant) appeals the motion court’s judgment denying, without an evidentiary hearing, his Rule 29.15¹ Motion to Vacate, Set Aside, or Correct Judgment and Sentence and Request for Evidentiary Hearing (Rule 29.15 Motion).

AFFIRMED.

Division One Holds: Under the United States Supreme Court’s recent decisions in Lafler v. Cooper, 566 U.S. ---, 132 S. Ct. 1376 (2012), and Missouri v. Frye, 566 U.S. ---, 132 S. Ct. 1399 (2012), and the precedent of this Court, Movant sufficiently alleged his counsel’s performance was deficient by alleging she failed to inform him of the mandatory minimum sentence for robbery. Because he filed his Rule 29.15 Motion before Frye and Lafler were decided, and because Missouri has not heretofore required movants to allege the prosecution would not have withdrawn the plea and the trial court would have accepted it, an evidentiary hearing is the most appropriate place for such determinations. However, because Movant was aware that the maximum sentence for robbery was life in prison and chose to reject the plea offer with that knowledge, Movant has not alleged facts showing he was prejudiced by any failure to inform on the part of his attorney.

Opinion by: Gary M. Gaertner, Jr., J.
Clifford H. Ahrens, P.J., and Roy L. Richter, J., concur.

Attorney for Appellant: Scott Thompson

Attorney for Respondent: Chris Koster and Shaun J. Mackelprang

**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 All rule references are to Mo. R. Crim. P. (2012), unless otherwise indicated.