

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

ROBERT CAVE,)	No. ED97888
)	
Appellant,)	
)	Appeal from the Circuit Court
vs.)	of Jefferson County
)	
STATE OF MISSOURI,)	Honorable Mark Stoll
)	
Respondent.)	FILED: June 18, 2013

Robert Cave (Movant) appeals from the circuit court’s judgment denying, after an evidentiary hearing, his Rule 29.15 motion for post-conviction relief. Movant asserts that the motion court erred in that his trial counsel was ineffective for failing to instruct defense witnesses to be interviewed by the prosecutor before testifying.

AFFIRMED.

DIVISION ONE HOLDS: The trial court did not err. Lawyers are prohibited from giving legal advice to an unrepresented person whose interests are in conflict with her client’s interests, and counsel has no duty to advise a witness of his legal rights, so counsel’s failure to do so cannot constitute ineffective assistance. In addition, counsel articulated a rationale for her restraint, and reasonable choices of trial strategy cannot serve as a basis for a claim of ineffective assistance. Finally, given the witnesses’ vehemence in refusing to speak with the prosecutor, we see no reasonable probability that the outcome of Movant’s case would have been different but for counsel’s silence.

Opinion by: Clifford H. Ahrens, P.J. Sherri B. Sullivan, J., and Glenn A. Norton, J., concur.

Attorney for Appellant: Jessica Hathaway

Attorney for Respondent: Mary Highland Moore

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