

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DONALD K. GIAMMANCO, Appellant,) No. ED99209
) Appeal from the Circuit Court of
vs.) St. Louis County
) Honorable Richard C. Bresnahan
STATE OF MISSOURI, Respondent.) Filed: December 31, 2013

Donald K. Giammanco (Movant) appeals from the judgment of the Circuit Court of St. Louis County denying his Rule 29.15 motion. Movant asserts the motion court clearly erred in denying without an evidentiary hearing his claims that trial counsel provided ineffective assistance by failing to file motions to dismiss the case based on violations of Movant's right to a speedy trial and right to be free from double jeopardy. Movant also contends the motion court clearly erred in denying without an evidentiary hearing his claim that he received ineffective assistance based on trial counsels' alleged conflict of interest.

AFFIRMED.

Division Four Holds: The motion court did not clearly err in denying without a hearing Movant's claim that trial counsel were ineffective in failing to move to dismiss the charges based on a violation of Movant's right to a speedy trial because Movant failed to plead facts not refuted by the record demonstrating a violation of that right. The motion court also did not clearly err in denying without a hearing Movant's claim that trial counsel were ineffective in failing to move for dismissal based on Movant's right to be free from double jeopardy because, under Missouri law, double jeopardy does not prohibit convictions in federal and state court for crimes arising from the same conduct. State v. Roach, 391 S.W.3d 8, 9 (Mo.App.E.D. 2012). Finally, the trial court did not clearly err in denying without a hearing Movant's claim that trial counsel were ineffective based on an alleged conflict of interest because the record refuted Movant's allegations.

Opinion by: Patricia L. Cohen, J.

Lisa S. Van Amburg, P.J., and Gary M. Gaertner, Jr., J., concur.

Attorney for Appellant: Jessica Hathaway

Attorney for Respondent: Richard A. Starnes

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.