

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

DARRILL LYNN,	)	No. ED99451
	)	
Appellant,	)	
	)	Appeal from the Circuit Court of
vs.	)	Warren County
	)	
STATE OF MISSOURI,	)	Honorable Keith M. Sutherland
	)	
Respondent.	)	Filed: October 8, 2013

Darrill Lynn (Movant) appeals the judgment of the circuit court denying his Rule 24.035 motion for post-conviction relief after an evidentiary hearing. Movant contends that the motion court erred in denying his motion because: (1) his open guilty plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), was invalid under *Alford*; (2) counsel was ineffective for advising Movant to enter an open *Alford* plea because it provided no benefit over a trial; (3) counsel was ineffective for failing to conduct adequate pretrial investigation; (4) counsel was ineffective for promising that Movant would receive probation; (5) counsel was ineffective for failing to file and litigate a motion to suppress Movant’s statements to police; and (6) the court improperly accepted the plea without a sufficient factual basis.

AFFIRMED.

Division Three Holds: The motion court did not err in denying Movant’s claims because:

- 1) The court’s dialogue with Movant at the plea hearing established, as required by *Alford*, that Movant made a voluntary and intelligent choice among the options available to him;
- 2) The plea offered a benefit over going to trial in that the State promised not to charge Movant with felony murder in exchange for his plea of guilty to kidnapping;
- 3) Counsel reviewed the discovery in the case, counsel was aware of the expected testimony of witness Scott Trower, and Mr. Trower’s testimony would not have provided Movant with a viable defense;
- 4) Counsel never promised Movant that the trial court would suspend execution of his sentence and put him on probation. Even assuming he did, Movant’s mistaken belief that he would receive probation was unreasonable;
- 5) Movant pleaded guilty voluntarily and thereby waived his claim that counsel was ineffective for failing to file a motion to suppress; and

6) There was a sufficient factual basis for Movant's guilty plea.

Opinion by: Angela T. Quigless, J.

Mary K. Hoff, P.J., Kurt S. Odenwald, J., Concur.

Attorney for Appellant: Murry A. Marks

Attorney for Respondent: Andrew C. Hooper

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