

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STEVEN A. RIOS

APPELLANT,

**v.
STATE OF MISSOURI**

RESPONDENT.

DOCKET NUMBER WD73930

DATE: June 12, 2012

Appeal From:

Boone County Circuit Court
The Honorable Sanford F. Conley IV, Judge

Appellate Judges:

Division Four: Lisa White Hardwick, Chief Judge, Presiding, Cynthia L. Martin, Judge and
Kenneth Garrett, Special Judge

Attorneys:

Ellen H. Flottman, Columbia, MO, for appellant.

Daniel N. McPherson, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT**

STEVEN A. RIOS,

APPELLANT,

v.

STATE OF MISSOURI,

RESPONDENT.

No. WD73930

Boone County

Before Division Four: Lisa White Hardwick, Chief Judge, Presiding, Cynthia L. Martin, Judge and Kenneth Garrett, Special Judge

Steven Rios appeals from the motion court's denial of his Rule 29.15 motion after an evidentiary hearing.

AFFIRMED.

Division Four holds:

(1) Trial counsel was not ineffective for failing to examine two witnesses whose testimony would not have provided Rios with a viable defense, and whose testimony would have been favorable to the State.

(2) Trial counsel was not ineffective for failing to call a journalist as a witness as his testimony would have been cumulative.

(3) Rios fails to overcome the presumption that trial counsel had a strategic reason for not eliciting testimony from Rios's superior about a claimed exculpatory statement. Rios also fails to demonstrate prejudice in that Rios's statement did not negate the other evidence of Rios's guilt and was cumulative.

(4) Rios fails to overcome the presumption that calling a DNA expert to testify was a reasonable trial strategy.

(5) Rios fails to establish that he wanted to testify but was denied the opportunity to do so.

Opinion by: Cynthia L. Martin, Judge

June 12, 2012

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