

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

---

COMPLETE TITLE OF CASE:

TERRY CLEO GEORGE,

Appellant

v.

STATE OF MISSOURI.

Respondent

---

DOCKET NUMBER WD75294

DATE: July 23, 2013

---

Appeal From:

Circuit Court of Clinton County, MO  
The Honorable Paul Thomas Luckenbill, Jr., Judge

---

Appellate Judges:

Special Division  
James Edward Welsh, C.J., Gary D. Witt, J., and Zel Fischer, Sp. J.

---

Attorneys:

Laura Martin, Kansas City, MO

Counsel for Appellant

---

Attorneys:

Andrew Hooper, Jefferson City, MO

Counsel for Respondent

---

**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**TERRY CLEO GEORGE, Appellant, v.  
STATE OF MISSOURI, Respondent**

**WD75294**

**Clinton County**

Before Division Special Division Judges: Welsh, C.J., Witt, J., and Fischer, Sp. J.

Terry Cleo George appeals the circuit court's judgment denying his Rule 24.035 motion for post-conviction relief without an evidentiary hearing. George alleges that the circuit court clearly erred in denying his motion without an evidentiary hearing because he alleged facts, which, if true, would entitle him to relief, which were not refuted by the record, and which established that he was prejudiced. Specifically, George alleged in his motion that his plea attorney provided ineffective assistance of counsel when counsel failed to explain the meaning of the word "consecutive" in regard to sentencing. He also alleged that the plea court failed to advise him of the maximum punishment that he would receive for the three offenses of class D felony of nonsupport.

**Affirmed**

**Special Division holds:**

(1) The record in this case clearly refutes George's claim that his plea attorney provided ineffective assistance of counsel by failing to explain the meaning of the word "consecutive" in regard to sentencing. Where a guilty plea proceeding directly refutes the claim that an appellant's plea was involuntary, the appellant is not entitled to an evidentiary hearing. The record establishes that George's plea counsel clearly outlined the plea agreement at the hearing and stated that one of the sentences would run consecutively with the other two sentences and that the sentences would be for a total of eight years in the Department of Corrections.

(2) Although the plea court did not inform George, in open court, of the maximum possible penalty provided by law as required by Rule 24.02(b)(1), the court's failure to follow Rule 24.02(b)(1) in every respect does not necessarily constitute prejudicial error. The facts establish that George was not prejudiced by the plea court's failure to inform him that he could potentially face a maximum sentence of twelve years if all sentences were run consecutively. George received a total of eight years under the plea agreement rather than the maximum sentence of twelve years. Moreover, as we previously noted, the record establishes that George's plea counsel clearly outlined the plea agreement at the hearing and stated that one of the sentences would run consecutively with the other two sentences and that the sentences would be for a total of eight years in the Department of Corrections.

Opinion by James Edward Welsh, Chief Judge

July 23, 2013

\* \* \* \* \*

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**