

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

TYREESE R. THOMPSON,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD76794

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 9, 2014

APPEAL FROM

The Circuit Court of Buchanan County, Missouri
The Honorable Patrick K. Robb, Judge

JUDGES

Division One: Pfeiffer, P.J., and Hardwick and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Damien de Loyola, Assistant Appellate Defender
Kansas City, MO

Attorney for Appellant,

Chris Koster, Attorney General
Daniel N. McPherson, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent.



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

TYREESE R. THOMPSON,)
)
) **Appellant,**)
v.) **OPINION FILED:**
) **September 9, 2014**
STATE OF MISSOURI,)
)
) **Respondent.**)

WD76794

Buchanan County

Before Division One Judges: Mark D. Pfeiffer, Presiding Judge, and Lisa White Hardwick and Karen King Mitchell, Judges

Tyrese Thompson appeals the denial, without an evidentiary hearing, of his Rule 24.035 motion for post-conviction relief. Thompson claims that his plea counsel provided ineffective assistance by failing to investigate and seek to suppress evidence discovered as a result of Thompson's allegedly illegal seizure. Thompson further claims that counsel also failed to advise Thompson of the possibility of suppression; thus, Thompson's plea was rendered involuntary and unknowing. The State argues that Thompson waived his claims when Thompson entered a voluntary and knowing guilty plea.

AFFIRMED.

Division One holds:

1. To be entitled to relief on a claim of ineffective assistance, premised on counsel's failure to advise of a potentially valid suppression motion, a movant must establish, at a minimum, not only the unconstitutionality of the search or seizure but also that *his attorney's advice to plead guilty* without having made inquiry into the alleged unconstitutional seizure rendered that advice outside the range of competence demanded of attorneys in criminal cases.
2. It is not enough to merely demonstrate that a suppression motion, if sought, would have been granted.

3. A defendant seeking to establish that plea counsel was ineffective in advising the defendant to plead guilty must show that the advice to plead guilty itself, in light of all the various considerations, was incompetent.
4. Here, Thompson simply failed to allege that counsel's advice to plead guilty was incompetent in light of all of the risks and opportunities facing Thompson at the time.

Opinion by: Karen King Mitchell, Judge

September 9, 2014

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