

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

TIMOTHY CAFFERTY,

Appellant

v.

STATE OF MISSOURI.

Respondent

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DOCKET NUMBER WD76817

DATE: November 4, 2014

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Appeal From:

Circuit Court of DeKalb County, MO  
The Honorable Thomas Nichols Chapman, Judge

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Appellate Judges:

Division Four  
Alok Ahuja, C.J. Presiding, Joseph M. Ellis, and James Edward Welsh, JJ.

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Attorneys:

S. Kate Webber, Kansas City, MO

Counsel for Appellant

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Attorneys:

Andrew Hooper, Jefferson City, MO

Counsel for Respondent

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

**TIMOTHY CAFFERTY, Appellant, v.  
STATE OF MISSOURI, Respondent**

**WD76817**

**DeKalb County**

Before Division Four Judges: Ahuja, C.J., Ellis, and Welsh, JJ.

Timothy Cafferty appeals the circuit court's judgment denying his Rule 24.035 motion for post-conviction relief following an evidentiary hearing. In his sole point on appeal, Cafferty contends that the circuit court clearly erred in denying his Rule 24.035 motion, in violation of Rule 24.02(e) and his right to due process as guaranteed by the United States Constitution and article I, section 10 of the Missouri Constitution, because his guilty plea was not knowingly, intelligently, or voluntarily made. In particular, Cafferty asserts that the record does not establish a sufficient factual basis to support his plea of guilty to one count of criminal nonsupport.

**Reversed and remanded**

**Division Four holds:**

In reciting the charge to Cafferty, the circuit court did not mention on the record that an element of criminal nonsupport was that the parent failed to provide support without good cause. Although Cafferty unequivocally agreed that he was pleading guilty to the charge as recited by the court, nothing in the plea hearing indicates that Cafferty understood that failing to provide support "without good cause" was an element of the offense of criminal nonsupport. No one advised Cafferty during the plea hearing that if he was unable to provide support for any substantial reason that he could not be held criminally liable for the offense. Thus, because the record does not establish that Cafferty understood the specific nature and elements of the charge against him, his plea was not knowing and voluntary. We, therefore, are under a definite and firm impression that a mistake has been made and conclude that the circuit court erred in denying Cafferty's request for post-conviction relief.

Opinion by James Edward Welsh, Judge

November 4, 2014

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