

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

COMPLETE TITLE OF CASE

JAMES L. BROWN,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD77001

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 30, 2014

APPEAL FROM

The Circuit Court of Harrison County, Missouri
The Honorable Jack N. Peace, Judge

JUDGES

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

CONCURRING.

ATTORNEYS

Mark A. Grothoff, Assistant Public Defender
Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General
Dora A. Fichter, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent.



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

JAMES L. BROWN,)
)
) **Appellant,**)
v.) **OPINION FILED:**
) **September 30, 2014**
STATE OF MISSOURI,)
)
) **Respondent.**)

WD77001

Harrison County

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

James L. Brown appeals from the denial of his Rule 29.15 motion after an evidentiary hearing. In his sole point on appeal, Brown contends that the motion court clearly erred in denying his motion because he was denied effective assistance of counsel as a result of his trial counsel’s failure to strike Venireperson #7 as a juror despite the venireperson’s statement indicating that he believed Brown had done something to warrant being in court.

AFFIRMED.

Division One holds:

1. Counsel will not be deemed ineffective for failing to strike a prospective juror unless a movant can demonstrate actual bias or prejudice on the part of the prospective juror.
2. In evaluating a claim of juror bias or prejudice, we look to the entire voir dire and not just isolated responses.
3. The prospective juror’s belief that the defendant “did something to warrant a court situation” did not demonstrate actual bias or prejudice where counsel’s attempt to rephrase the question reflected that the question that led to the juror’s response was not clear and follow-up questioning suggested that the prospective juror was able to follow the law and apply the presumption of innocence.

Opinion by: Karen King Mitchell, Judge

September 30, 2014

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