IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

CHARLES T. THOMPSON,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD82893

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: August 25, 2020

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce, Judge

JUDGES

Division Two: Mitchell, P.J., and Gabbert and Thomson, JJ. CONCURRING.

ATTORNEYS

Tyler P. Coyle, Assistant State Public Defender, Columbia, MO, Attorney for Appellant.

Eric S. Schmitt, Attorney General, and Dora A. Fichter, Assistant Attorney General, Jefferson City, MO, Attorneys for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHARLES T. THOMPSON, Appellant,
v.
STATE OF MISSOURI, Respondent.

WD82893 **Cole County**

Before Division Two Judges: Karen King Mitchell, Presiding Judge, and Anthony Rex Gabbert and W. Douglas Thomson, Judges

Charles Thompson appeals, following an evidentiary hearing, the denial of his Rule 29.15 motion for post-conviction relief. Thompson raises two points on appeal. He argues that trial counsel provided ineffective assistance by failing to review State's Exhibit 151 before trial to ensure it had been properly redacted to delete references to uncharged misconduct, and he argues that appellate counsel provided ineffective assistance by failing to raise a claim on appeal challenging the admission of a State's expert's testimony as to how gunshot residue may have ended up on Thompson's clothing. The motion court denied both claims. Finding no error, we affirm.

AFFIRMED.

Division Two holds:

1. Where the record fails to disclose what portions of a videotape exhibit were actually played for the jury, a movant cannot demonstrate that counsel was ineffective for failing to object.

2. Movant cannot demonstrate prejudice when counsel would have taken the same actions regarding objections to the admission of an exhibit, even if counsel had reviewed the exhibit earlier.

3. An appellate attorney does not have to raise every preserved issue. Appellate counsel can strategically decide to "winnow out" non-frivolous arguments in favor of other reasonable arguments.

4. Here, appellate counsel's strategy of not raising the claim at issue was reasonable because he accurately assessed that it had a low probability of success.

Opinion by: Karen King Mitchell, Presiding Judge August 25, 2020

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