MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JASON A. KAESSER

APPELLANT,

v.

STATE OF MISSOURI

RESPONDENT.

DOCKET NUMBER WD83216

DATE: August 25, 2020

Appeal From:

Henry County Circuit Court
The Honorable James K. Journey, Judge

Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Thomas N. Chapman, Judge

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Attorneys:

Susan L. Hogan, Kansas City, MO, for appellant.

Kristen S. Johnson, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JASON A. KAESSER, APPELLANT,
v.
STATE OF MISSOURI, RESPONDENT.

WD83216 Henry County

Before Division Three Judges: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge, and Thomas N. Chapman, Judge

Jason A. Kaesser ("Kaesser") appeals the judgment of the Circuit Court of Henry County, Missouri ("motion court"), denying his Rule 25.035 motion for post-conviction relief without an evidentiary hearing. On appeal, Kaesser claims that the trial court erred in denying his motion without a hearing because his motion alleges facts which, if true, show that his guilty plea was involuntary. Specifically, Kaesser alleges that his plea was involuntary and coerced by fear and his counsel's ineffectiveness because his first appointed counsel told him that a six-year sentence "running wild" was the best plea offer he would receive, and because he was afraid that he would serve a much longer sentence if he went to trial and was found guilty.

AFFIRMED.

Division Three holds:

In this case, an evidentiary hearing before the motion court was not necessary because Kaiser's claims were conclusively refuted by the record. The only allegation that Kaesser makes with respect to his first counsel was that a six-year sentence, "running wild," was the best plea offer he would receive. Kaesser has not alleged that this representation by counsel was false, and six years was, in fact, the sentence Kaesser received under his subsequent plea agreement. Also, Kaesser has not alleged that either of his lawyers said or did anything to make him unreasonably afraid to forgo a guilty plea and go to trial. His retained counsel, in fact, advised him that he did not think the State had enough evidence to make its case against him, and the disparity in his possible sentence if found guilty and that offered by the State in return for a plea were largely due to his own criminal history (making him a persistent offender) and possibly the weakness of the State's case, and were not due to any alleged ineffectiveness of his counsel that he did not contradict at his plea hearing.

Opinion by: Gary D. Witt, Judge August 25, 2020

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