MISSOURI COURT OF APPEALS
WESTERN DISTRICT

ROBERT L. HOOK,
RESPONDENT

vs.

STATE OF MISSOURI,
APPELLANT

DOCKET NUMBER WD82639

DATE: SEPTEMBER 15, 2020

Appeal from:

The Circuit Court of Randolph County, Missouri
The Honorable Terry A. Tschannen, Judge

Appellate Judges:

Division Three: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr. Judge and W. Douglas Thomson, Judge

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Attorneys:

Tyler P. Coyle, for Respondent

Gregory L. Barnes, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

ROBERT L. HOOK, RESPONDENT,
v.
STATE OF MISSOURI, APPELLANT.

WD82639 Randolph County

Before Division Three Judges: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, and W. Douglas Thomson, Judge

The State of Missouri appeals from the motion court's judgment sustaining Robert L. Hook's Rule 29.15 motion for post-conviction relief following his convictions for first-degree child molestation, first-degree statutory sodomy, first-degree statutory rape, and incest. On appeal, the State claims the motion court clearly erred in granting relief on Hook's claims that trial counsel was ineffective for failing to: (1) object to the admission of testimony from witnesses concerning Victim's out-of-court statements and a handwritten statement written by Victim during direct examination because Victim failed to sufficiently testify pursuant to section 491, RSMo, thereby rendering Victim unavailable and the out-of-court statements and handwritten statement inadmissible; (2) investigate and present an expert witness to impeach the forensic interviewer's techniques used with Victim; (3) investigate and present certified copies of medical records from the first examination of Victim after disclosure of abuse which reported no physical injury; and (4) object to the admission of the State's DNA report.

REVERSED.

Division Three holds:

The motion court clearly erred in granting relief on Hook's claims that trial counsel was ineffective because: (1) Victim's testimony was sufficient to satisfy section 491.075, RSMo, rendering an objection to the testimony of the out-of-court statements and the handwritten statement non-meritorious; (2) Hook failed to demonstrate a reasonable probability that the outcome of trial would have been different if the expert witness had testified; (3) Hook failed to demonstrate a reasonable probability that the outcome of trial would have been different if counsel had offered the medical records into evidence; and (4) the admission of the State's DNA report was not prejudicial.

Opinion by: W. Douglas Thomson, Judge Date: September 15, 2020

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