In the Missouri Court of Appeals
Eastern District

DIVISION THREE

RICKY JOHN HARDING, JR.,	)	No. ED108113
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	Warren County
vs.	)	17BB-CC00126
	)	
STATE OF MISSOURI,	)	Honorable Keith M. Sutherland
	)	
Respondent.	)	Filed: December 29, 2020

Ricky John Harding, Jr., appeals the judgment denying his Rule 29.15 motion for post-conviction relief following his convictions for second-degree murder, third-degree domestic assault, four counts of second-degree endangering the welfare of a child, and unlawful possession of a firearm, for which he was sentenced to an aggregate of 45 years. Harding alleges the State committed a *Brady* violation and prosecutorial misconduct in the underlying case. He also alleges that his trial counsel was ineffective for failing to sufficiently cross-examine a witness, for failing to call an impeachment witness, for unnecessarily agreeing to identify his prior felony conviction for burglary in a stipulation to the jury, and for failing to object to improper statements made by the prosecutor during closing argument.

AFFIRMED.

DIVISION III HOLDS: The motion court did not err in denying Harding's Rule 29.15 motion for post-conviction relief because:

(1) The State did not commit a *Brady* violation or prosecutorial misconduct because no material exculpatory or impeaching evidence was willfully or inadvertently suppressed by the State and *Brady* did not apply under the circumstances.

(2) Trial counsel was not ineffective for making the reasonable, strategic decision not to further cross-examine a witness or call a particular impeachment witness based on her concern that both could do Harding's defense more harm than good and would ultimately provide nothing but unnecessarily cumulative evidence of dubious value.

(3) Trial counsel was not ineffective for making the reasonable, strategic decision to stipulate to Harding's prior, nonviolent felony conviction for burglary because it likely aided the defense in showing that Harding had no history of violent crime or weapons related offenses.

(4) Trial counsel was not ineffective for failing to object to counselor Timothy Taylor's testimony about the emotional, mental, and psychological health of the four minor children involved in the case because it was logically and legally relevant to the four endangering-the-welfare-of-a-child charges brought against Harding.

(5) Trial counsel was not ineffective for failing to object during the prosecutor's closing argument because the complained of statements were comments about the evidence and witnesses presented at trial, and therefore fell within the range of what is permissible during closing arguments.

Opinion by: James M. Dowd, J.

Angela T. Quigless, P.J. and Kurt S. Odenwald, J. concur.

Attorney for Appellant: Tyler P. Coyle

Attorney for Respondent: Shaun J. Mackelprang

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.