MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SEBASTIAN DOWELL

APPELLANT,

v.

STATE OF MISSOURI

RESPONDENT.

DOCKET NUMBER WD83511

DATE: January 12, 2021

Appeal From:

Buchanan County Circuit Court
The Honorable Daniel F. Kellogg, Judge

Appellate Judges:

Division Three: Edward R. Ardini, Jr., Presiding Judge, Alok Ahuja, Judge and Gary D. Witt, Judge

---

Attorneys:

Jeffrey C. Esparza, Kansas City, MO, for appellant.

Richard A. Starnes, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

SEBASTIAN DOWELL, APPELLANT,
v.
STATE OF MISSOURI, RESPONDENT.

WD83511 Buchanan County

Before Division Three Judges: Edward R. Ardini, Jr., Presiding Judge, Alok Ahuja, Judge, and Gary D. Witt, Judge

Sebastian Dowell ("Dowell") appeals the judgment of the Circuit Court of Buchanan County, Missouri ("motion court"), denying, after an evidentiary hearing, his motion for post-conviction relief pursuant to Missouri Supreme Court Rule 24.035. On appeal, Dowell claims the motion court clearly erred in denying his Rule 24.035 motion because his plea counsel was constitutionally ineffective in retaining an expert who failed to perform a scientifically adequate psychological examination and that, but for plea counsel's deficient performance, there is a reasonable probability that Dowell would have received a lesser sentence.

AFFIRMED.

Division Three holds:

Dowell and his girlfriend murdered a young woman by strangling and stabbing her. Dowell pleaded guilty, and in exchange, the State agreed not to seek any enhancements or elevated charges. Dowell was sentenced to life in prison. Dowell satisfied neither the performance prong nor the prejudice prong of the test for ineffective counsel set forth in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Although Dowell alleged that the expert his counsel retained to testify at the sentencing hearing failed to perform a scientifically adequate psychological examination, he provided no evidence that this was true. He did not call the retained expert at his evidentiary hearing or provide any evidence about the extent of the examination other than his plea counsel's testimony, and plea counsel recalled little detail regarding the nature and extent of the mental health examination. Dowell also failed to produce at his hearing any evidence of what mental-health testimony could have been adduced at the sentencing hearing that would have been persuasive to the sentencing court and which would have resulted in a lesser sentence.

Opinion by: Gary D. Witt, Judge January 12, 2021

****

This summary is UNOFFICIAL and should not be quoted or cited.