IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

GARRON T. BRIGGS,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD82991

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: February 9, 2021

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable David M. Byrn, Judge

JUDGES

Division Three: Mitchell, P.J., and Witt and Gabbert, JJ. CONCURRING.

ATTORNEYS

Kent E. Gipson, Kansas City, MO, Attorney for Appellant.

Eric S. Schmitt, Attorney General, and Shaun J. Mackelprang, Assistant Attorney General, Jefferson City, MO, Attorneys for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GARRON T. BRIGGS, Appellant,
v.
STATE OF MISSOURI, Respondent.

WD82991 **Jackson County**

Before Division Three Judges: Karen King Mitchell, Presiding Judge, and Gary D. Witt and Anthony Rex Gabbert, Judges

Garron Briggs appeals the denial of his Rule 29.15 motion for post-conviction relief, following an evidentiary hearing, wherein he raised multiple claims of ineffective assistance of trial counsel. Briggs raises four points on appeal, each challenging the motion court's ruling on a different claim made in his amended motion. The State urges us to dismiss this appeal for lack of a final, appealable judgment, arguing that, because Briggs's amended motion was untimely and filed by privately retained counsel, the motion court's review was limited to Briggs's *pro se* motion; and because the motion court did not issue any findings of fact or conclusions of law on Briggs's *pro se* claims, the judgment it did issue is neither final nor appealable. We agree with the State and dismiss this appeal.

APPEAL DISMISSED.

Division Three holds:

1. The timeline for filing an amended post-conviction relief motion is triggered when counsel is appointed, even if the movant later retains private counsel.

2. The abandonment doctrine, which allows a motion court to potentially excuse a late filing of an amended motion, does not apply where post-conviction counsel is retained rather than appointed.

3. If an amended motion, filed by retained counsel, is untimely, the motion court may review only the original *pro se* motion.

4. Our review is limited to the findings of fact and conclusions of law issued by the motion court. If the motion court fails to address the only proper claims before it, its judgment is not final and we must dismiss the appeal for lack of appellate jurisdiction.

5. Here, Briggs's retained post-conviction counsel filed the amended motion after the deadline that began running when counsel was initially appointed for Briggs. Therefore,

the motion court could neither review the amended motion nor excuse its untimeliness and was limited to reviewing the claims in the original *pro se* motion. Because the motion court's findings of fact and conclusions of law did not address any of the *pro se* claims, we are left with nothing to review and must dismiss the appeal for lack of a final judgment.

Opinion by: Karen King Mitchell, Presiding Judge February 9, 2021

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