OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

KEVIN D. POSCH,	)	No. ED108722
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	Cape Girardeau County
vs.	)	
	)	Honorable Benjamin F. Lewis
STATE OF MISSOURI,	)	
	)	
Respondent.	)	Filed: February 16, 2021

Kevin D. Posch ("Movant") appeals the motion court's denial of his post-conviction relief motion claiming that his previously-adjudicated Rule 24.035 case should be re-opened because he was abandoned by his appointed post-conviction counsel during those previous post-conviction proceedings. In his two points on appeal, Movant argues that the motion court clearly erred in denying his post-conviction motion claiming abandonment. Specifically, Movant claims that he was abandoned when his appointed post-conviction counsel filed a motion to rescind appointment and proceeded to withdraw based upon the determination that Movant was not indigent.

AFFIRMED.

DIVISION ONE HOLDS: We find that, because Movant was properly determined to not be indigent such that he was not entitled to appointment of post-conviction counsel, Movant's claim contained in his post-conviction motion did not constitute abandonment. As such, the motion court did not clearly err in denying Movant's Rule 24.035 motion alleging abandonment without conducting an abandonment inquiry and without making findings of fact and conclusions of law.

Opinion by: Kelly C. Broniec, J.
Colleen Dolan, P.J. and Robert M. Clayton III, J. concur.

Attorney for Appellant: Kevin D. Posch, *pro se*

Attorney for Respondent: Julia E. Rives

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.