OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

STATE OF MISSOURI,	)	No. ED108750
	)	
Respondent,	)	Appeal from the Circuit Court of
	)	Cape Girardeau County
vs.	)	
	)	Honorable Benjamin F. Lewis
FRED L. HARRIS,	)	
	)	
Appellant.	)	Filed: March 23, 2021

Fred Harris, Sr., ("Movant") appeals the motion court's denial of his motion for post-conviction DNA testing, pursuant to § 547.035. Movant raises two points on appeal. First, Movant argues that the motion court clearly erred in denying his motion following a hearing because the DNA testing methods that he seeks were not reasonably available to him at trial. He also alleges that the motion court applied the incorrect test in making its determination. In his second point on appeal, Movant asserts that the motion court clearly erred in denying his motion because it incorrectly concluded that he chose not to pursue independent DNA testing as a matter of trial strategy.

AFFIRMED.

DIVISION ONE HOLDS: Movant has not established that the motion court clearly erred in determining that he had DNA testing reasonably available to him at trial because slight technological changes and the development of Y-STR DNA testing following his trial have not called into question the reliability of the testing conducted by the State. Movant also has not demonstrated that the motion court clearly erred by applying an objective test because the record indicates that it did a thorough examination of Movant's specific circumstances around the time of his trial. Finally, Movant has not shown that the motion court clearly erred in determining that he and his trial counsel decided to strategically forgo independent DNA testing because they had knowledge of DNA testing done on the evidence and elected to pursue their trial strategy in a different manner.

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

Attorney for Appellant: Edward S. Thompson

Attorney for Respondent: Robert J. Bartholomew, Jr.

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.