IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

ANTONIO M. MORRISON,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD83887

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: March 30, 2021

APPEAL FROM

The Circuit Court of Buchanan County, Missouri
The Honorable Patrick K. Robb, Judge

JUDGES

Division Four: Martin, C.J., and Newton and Pfeiffer, JJ. CONCURRING.

ATTORNEYS

Jeffrey C. Esparza, Assistant Public Defender, Kansas City, MO, Attorney for Appellant.

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

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

ANTONIO M. MORRISON, APPELLANT,
v.
STATE OF MISSOURI, RESPONDENT.

WD83887 Buchanan County

Before Division Four Judges: Cynthia L. Martin, Chief Judge, and Thomas H. Newton and Mark D. Pfeiffer, Judges

After a bench trial, Mr. Antonio M. Morrison ("Morrison") was convicted of one count of felony resisting arrest in violation of section 575.150.1(1). On direct appeal, this court affirmed his conviction. Morrison now appeals from the judgment of the Circuit Court of Buchanan County, Missouri ("motion court"), denying, without an evidentiary hearing, his Rule 29.15 amended motion for post-conviction relief, based on ineffective assistance of appellate counsel.

In Morrison's sole point on appeal, he contends that the motion court erred in denying his post-conviction relief motion without an evidentiary hearing because appellate counsel was ineffective for failing to raise in his direct appeal the claim that there was insufficient evidence that the officer was attempting to stop his vehicle for committing any "crime, infraction, or ordinance violation."

AFFIRMED.

Division Four holds:

1. To support a conviction for resisting a lawful stop under section 575.150.1(1), the State was required to prove: (1) defendant knew or reasonably should have known that a law enforcement officer was making a lawful stop; (2) defendant resisted that stop by fleeing from the officer, or by threatening to use violence or physical force; and (3) defendant did so for the purpose of preventing the officer from completing the stop.

2. The version of the resisting arrest statute in effect at the time of Morrison's commission of the crime provided that it "applies to . . . stops, or detentions, with or without warrants." Clearly, the statute applies to the type of stops or detentions contemplated by *Terry v. Ohio*, 392 U.S. 1, 30 (1968). Morrison does not argue that the officer's actions were violative of the "reasonable suspicion" standard for initiating a *Terry* stop.

3. The claim Morrison asserts appellate counsel should have asserted on his direct appeal would have been futile, and we will not convict appellate counsel of ineffective assistance for failing to raise a futile claim.

Opinion by: Mark D. Pfeiffer, Judge March 30, 2021

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