MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MICAH WYNES

APPELLANT,

v.

STATE OF MISSOURI

RESPONDENT.

DOCKET NUMBER WD83891

DATE: July 6, 2021

Appeal From:

Clinton County Circuit Court
The Honorable Daren L. Adkins, Judge

Appellate Judges:

Special Division: Cynthia L. Martin, Chief Judge, Presiding, Lisa White Hardwick, Judge and Alok Ahuja, Judge

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Attorneys:

Kenneth C. Hensley, Raymore, MO, for appellant.

Julia E. Rives, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MICAH WYNES, APPELLANT,
v.
STATE OF MISSOURI, RESPONDENT.

No. WD83891 Clinton County

Before Special Division: Cynthia L. Martin, Chief Judge, Presiding, Lisa White Hardwick, Judge and Alok Ahuja, Judge

Micah Wynes appeals the denial of his *pro se* Rule 24.035 motion to set aside his guilty plea to the charge of murder in the second-degree. Wynes alleges that the motion court committed clear error because his guilty plea was not voluntarily made because he was under duress at the time he entered the plea. Wynes also alleges that he received ineffective assistance of counsel because he was not advised that the lesser-included offense of voluntary manslaughter could have been submitted to the jury.

AFFIRM.

Special Division holds:

1. Where a Rule 24.035 motion must be filed within 180 days of the date a sentence is entered, the time for filing begins to run when the written judgment reflecting the sentence is entered, and not when the sentence is imposed in open court.

2. The motion court did not clearly error by holding that Wynes failed to sustain his burden to establish duress where the only evidence of alleged duress involved conduct by the victim who had already been murdered by the time Wynes entered his guilty plea.

3. Wynes's failure to contest the motion court's finding that he sustained no prejudice, even assuming trial counsel failed to advise Wynes of the lesser-included offense of voluntary manslaughter, is fatal to Wynes's appeal.

4. Even presuming Wynes challenged the motion court's prejudice finding, we would not find clear error as there was no evidence in the record to support the submission of the lesser-included offense of voluntary manslaughter.

Opinion by Cynthia L. Martin, Judge July 6, 2021

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