OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

JACOB T. SHEPARD,	)	No. ED110167
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of Cape Girardeau County
v.	)	Cause No. 21CG-CC00025
	)	
STATE OF MISSOURI,	)	Honorable Scott A. Lipke
	)	
Respondent.	)	Filed: October 25, 2022

Jacob Shepard appeals from the circuit court's judgment denying his amended motion for postconviction relief under Rule 24.035 without an evidentiary hearing. Shepard's motion was based on his contention that he had a potential defense under the Good Samaritan Law, § 195.205, to the drug possession charge to which he pleaded guilty. Shepard contended that his attorney was ineffective for not filing a motion to dismiss under that statute, for not further investigating that defense, and for advising him to plead guilty without further investigating the defense. Shepard also claimed that the circuit court lacked authority to enter a conviction because he was immune from prosecution under § 195.205.

AFFIRMED.
Division Three holds: By pleading guilty, Shepard waived his claims regarding his attorney's failure to file a motion to dismiss or investigate the Good Samaritan defense and his claim regarding the circuit court's authority. As to his claim regarding his attorney's advice to plead guilty, the facts alleged in Shepard's amended motion were insufficient to demonstrate that he was entitled to relief and were, in any event, conclusively refuted by the record. Therefore, the circuit court did not clearly err in denying his motion without an evidentiary hearing.

Opinion by: John P. Torbitzky, J.,
Cristian M. Stevens, J., concur.
Gary M. Gaertner, Jr., dissents in separate opinion.

Attorney for Appellant: Stephanie A. Hoeplinger

Attorney for Respondent: Garrick F.D. Aplin

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.