OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

DONTE MCGARY,	)	No. ED110408
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	St. Louis County
vs.	)	20SL-CC04453
	)	
STATE OF MISSOURI,	)	Honorable Joseph S. Dueker
	)	
Respondent.	)	Filed: March 28, 2023

Kelly C. Broniec, P.J., Philip M. Hess, J., and James M. Dowd, J.

In this post-conviction relief case, appellant Donte McGary sought relief under Rule 24.035 after pleading guilty to second-degree murder, first-degree assault, and two counts of armed criminal action arising out of a fight that occurred at a bowling alley in Richmond Heights, Missouri. Although he filed a timely *pro se* motion, court-appointed counsel failed to file Appellant's amended motion within 60 days of the date the court-appointed counsel as required by Rule 24.035(g) (2020). Appellant asserts that the motion court erred in denying his motion without making an abandonment inquiry on the record because the amended motion was untimely.

REVERSED AND REMANDED.

DIVISION IV HOLDS: We reverse and remand because the trial court erred in failing to conduct an abandonment inquiry as required when an amended motion is untimely.

Opinion by: James M. Dowd, J.

Kelly C. Broniec, P.J., and Philip M. Hess, J., concur.

Attorneys for Appellant: Gwenda R. Robinson

Attorneys for Respondent: Alex D. Beezley

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.