

MISSOURI COURT OF APPEALS EASTERN DISTRICT

OPINION SUMMARY

DIVISION FOUR

DOMINIQUE KEMPER,	)	No. ED111038
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	the City of St. Louis
vs.	)	2122-CC00829
	)	
STATE OF MISSOURI,	)	Honorable Clinton B. Wright
	)	
Respondent.	)	Filed: October 24, 2023

Thomas C. Clark, II, C.J., James M. Dowd, J., and John P. Torbitzky, J.

In this post-conviction relief case, Dominique Kemper seeks relief pursuant to Rule 29.15 after a jury found him guilty of first-degree murder, armed criminal action, resisting a lawful stop, and possession of a controlled substance. After his direct appeal was affirmed, Kemper timely filed his *pro se* Rule 29.15 motion and *in forma pauperis* application. The court did not appoint counsel for Kemper. After an assistant public defender entered her appearance and represented Kemper throughout these proceedings, Kemper's amended motion was filed out of time. The motion court found Kemper was abandoned and therefore considered the merits of his amended motion.

REVERSE AND REMAND.

DIVISION IV HOLDS: We find that the motion court clearly erred applying the abandonment doctrine and in adjudicating the claims in the amended motion because Kemper's post-conviction counsel had not been appointed as required by Rule 29.15(e). Therefore, we remand to the motion court to adjudicate the claim in Kemper's *pro se* motion only.

Opinion by: James M. Dowd

Thomas C. Clark, II, C.J., and John P. Torbitzky, J., concur.

Attorneys for Appellant: Lisa M. Stroup

Attorneys for Respondent: Julia E. Rives

<p><b>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.</b></p>
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