MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RYAN ANTHONY TATHAM, Appellant,
v.
STATE OF MISSOURI, Respondent.

DOCKET NUMBER WD87280

DATE: May 27, 2025

Appeal From:

The Circuit Court of Cole County, Missouri
The Honorable Cotton Walker, Judge

Appellate Judges:

Division One: Karen King Mitchell, Presiding Judge, and Lisa White Hardwick and Mark D. Pfeiffer, Judges

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Attorneys:

David Angle, Assistant Public Defender, Columbia, MO, Attorney for Appellant.

Andrew Bailey, Attorney General, and Wensdai Brooks, Assistant Attorney General, Jefferson City, MO, Attorneys for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RYAN ANTHONY TATHAM, Appellant,
v.
STATE OF MISSOURI, Respondent.

WD87280 Cole County

Before Division One Judges: Karen King Mitchell, Presiding Judge, and Lisa White Hardwick and Mark D. Pfeiffer, Judges

Mr. Ryan Tatham ("Tatham") appeals the judgment of the Circuit Court of Cole County, Missouri ("motion court"), denying, after an evidentiary hearing, his motion for post-conviction relief ("PCR") pursuant to Rule 29.15, which asserted that his trial counsel's assistance was constitutionally ineffective.

In 2018, Tatham purchased a foreclosed property and hired Victim to repair it. Victim contracted to receive half of his payment up front and half after completing the work. Near the end of the project, Tatham complained about some of Victim's work. When Victim offered to address the issue, Tatham declined and then threatened him. Victim ceased working on the repairs and did not ask for the second payment.

Nearly eight months later, Tatham came to Victim's home. When Victim's stepson answered the door, Tatham demanded he call Victim while Tatham waited to confront him. When Victim arrived home along with his son, Tatham approached his car, yelling that Victim stole his money—the advance payment from the contract. Tatham, with one arm behind his back, repeatedly threatened that he would harm Victim if Victim did not return the money. Victim, believing that Tatham was concealing a gun behind his back, yielded to the threats. At first, Victim offered to go inside the house to get money, but Tatham refused, believing Victim would call the police from inside the house. Tatham ultimately allowed Stepson to retrieve $700 from inside the house. But, Tatham demanded more money and forced Victim to drive him to an ATM, where Victim withdrew $800. At the ATM, Victim asked if Tatham was going to shoot him; Tatham responded, "not in broad daylight." At trial, Victim testified that he feared Tatham had a gun and would have killed him if he did not comply. In a police interview admitted at trial, Tatham acknowledged that his actions would have led Victim to reasonably believe that he was concealing a gun behind his back.

Following the bench trial, Tatham was convicted of two counts of attempted first-degree robbery and one count of second-degree kidnapping. After his direct appeal

was denied, Tatham argued in his PCR motion that his trial counsel was ineffective for failing to call Son as a witness. Tatham noted that Son, in his deposition, stated Tatham walked towards Victim's car while every other witness testified that Tatham ran towards the car. Tatham asserted that Son's testimony would have disputed Tatham's level of aggression, potentially negating an element of the kidnapping conviction. The motion court denied his claim, finding that the overwhelming evidence demonstrated Tatham placed Victim in reasonable fear for his life through both his highly aggressive actions and by making Victim reasonably believe he was armed with a gun. In his sole point on appeal, Tatham argues the motion court erred in denying his ineffective assistance claim.

AFFIRMED.

Division One holds:

To be entitled to relief for ineffective assistance of counsel, the movant must satisfy both the performance prong and the prejudice prong of the *Strickland* test. If the movant fails to satisfy either prong, relief cannot be granted. To satisfy the prejudice prong, the movant must show by the preponderance of the evidence that the outcome at trial would have been different absent counsel's alleged error. Therefore, Tatham was required to demonstrate that if Son had testified that Tatham walked instead of ran towards Victim's car, he would have been found not guilty of second-degree kidnapping. The motion court found that Tatham placed Victim in reasonable fear of grave bodily harm under two separate theories: by acting aggressively and by making Victim think he was armed with a gun. Son's testimony would have had no effect on the second theory. Furthermore, the overwhelming weight of Tatham's other aggressive acts would have rendered Son's testimony on the first theory moot. Thus, Son's testimony would not have changed the outcome at trial. The motion court did not clearly err in concluding Tatham failed to satisfy the prejudice prong or in subsequently denying Tatham's PCR motion.

Opinion by: Mark D. Pfeiffer, Judge May 27, 2025

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