Missouri Court of Appeals
Southern District

In Division

JAMES D. WOOLARD,

Movant-Appellant,

v.

STATE OF MISSOURI,

Respondent-Respondent.

No. SD38799

Filed: November 21, 2025

APPEAL FROM THE CIRCUIT COURT OF STODDARD COUNTY

Honorable Joe Z. Satterfield, Associate Circuit Judge

APPEAL DISMISSED

James Woolard (Woolard) appeals from the order denying his Rule 29.15 motion following the submission of depositions and judicial notice of the record, in lieu of a live evidentiary hearing, as agreed by the parties.[1] The motion court decided that retained counsel's amended motion was timely filed, so the motion court addressed only the claims raised in the amended motion. Because the motion court's

[1] All references to rules are to Missouri Court Rules (2019). All references to statutes are to RSMo (2016).

ruling on timeliness was in error, we vacate the order denying relief on the claims in the untimely amended motion. Because the motion court did not adjudicate all of the claims in Woolard's timely *pro se* motion, we must dismiss the appeal for lack of finality.

Factual and Procedural Background

After a jury trial, Woolard was convicted of three counts of statutory sodomy in the first degree on December 10, 2018. *See* § 566.062. He was sentenced to serve concurrent sentences of 23, 20, and 20 years in prison on January 28, 2019. On direct appeal, we affirmed Woolard's convictions. *See* ***State v. Woolard***, 604 S.W.3d 913, 915 (Mo. App. 2020) (en banc). Our mandate issued on July 30, 2020.

On October 27, 2020, Woolard filed his *pro se* Rule 29.15 motion. It contained the following three claims, alleging ineffective assistance of trial counsel for: (1) failing to object to the victim's video deposition and out of court statements; (2) permitting instructional error to occur and failing to object to propensity and character evidence; and (3) failing to object to evidence of "child abuse accommodation syndrome."

On December 28, 2020, retained post-conviction counsel entered an appearance and requested an additional 30 days to file an amended motion. The motion court granted the requested extension on December 29, 2020.

On March 29, 2021, retained counsel filed a request for a second 30-day extension to file the amended motion. On March 30, 2021, the motion court took up the request and granted it.

On April 27, 2021, retained counsel filed the amended motion. It contained the following three claims, alleging ineffective assistance of trial counsel for: (1) failing to object to the admission of the victim's video deposition in lieu of her live testimony pursuant to § 491.680; (2) failing to object to hearsay testimony pursuant to § 491.075; and (3) failing to object to irrelevant evidence of Woolard's drug use.

On August 12, 2024, retained counsel filed three exhibits to support Woolard's motion for post-conviction relief: (1) Woolard's deposition; (2) the deposition of his fiancée, S.P.; and (3) the transcript of a § 491.075 and § 492.304 hearing. In supporting suggestions filed on August 16, 2024, retained counsel stated to the motion court that:

> [Woolard] has presented evidence by way of deposition and exhibit, filed with this Court. [Woolard] respectfully requests that this Court take judicial notice of the underlying Stoddard County case … and the legal file of the case on appeal …. [Woolard] respectfully requests that this Court enter written findings of fact and conclusions of law, granting his request for post-conviction relief.

On November 7, 2024, the motion court entered an order regarding the timeliness of the amended motion. In relevant part, the order stated:

> 4. On December 28, 2020, private retained counsel entered an appearance on [Woolard's] behalf and requested an additional 30 days in addition to the initial 60 days to file an amended motion.
>
> 5. The court granted the request for an additional 30 days, making the amended motion due on or before March 28, 2021.
>
> 6. Since March 28, 2021, was a Sunday, the amended motion was due on March 29, 2021. Rule 44.01(a)

> 7. On March 29, 2021, Movant filed a request for an additional [30-day] extension to file his amended motion.
>
> 8. The court granted the motion for extension as the request was made before the expiration of the period as extended by previous order, making the amended motion due on or before April 27, 2021. Rule 44.01(b).
>
> 9. [Woolard] timely filed his amended motion on April 27, 2021.

On December 10, 2024, the motion court denied relief on the claims in the amended motion and issued findings of fact and conclusions of law related to each one. Woolard filed a timely notice of appeal challenging the court's denial of his amended motion.

Discussion and Decision

Timeliness of Pro Se and Amended Motions

This court has a duty to enforce the mandatory filing deadlines in Rule 29.15. *See* ***Scott v. State***, 719 S.W.3d 723, 726 (Mo. banc 2025); ***Sauter v. State***, 719 S.W.3d 143, 146-47 (Mo. App. 2025). Therefore, our first task is to determine whether Woolard's *pro se* and amended motions were timely filed.

Woolard was sentenced on January 28, 2019, so the version of Rule 29.15 in effect on that date applies to his post-conviction proceeding, regardless of any later amendments. ***Scott***, 719 S.W.3d at 727. Woolard appealed his convictions, so his *pro se* motion had to be filed within 90 days after the date our court issued its mandate. *See* Rule 29.15(b). Our mandate issued on July 30, 2020. Woolard filed his *pro se* Rule 29.15 motion 89 days later, on October 27, 2020. Therefore, the *pro se* motion was timely filed.

With respect to the amended Rule 29.15 motion, the following timing requirements applied at the time of Woolard's sentencing on January 28, 2019:

> If an appeal of the judgment sought to be vacated, set aside, or corrected is taken, the amended motion or statement in lieu of an amended motion shall be filed within 60 days of the earlier of the date both the mandate of the appellate court is issued and:
>
> (1) Counsel is appointed, or
>
> (2) An entry of appearance is filed by any counsel that is not appointed but enters an appearance on behalf of movant.
>
> The court may extend the time for filing the amended motion or statement in lieu of an amended motion, with no extension exceeding 30 days individually and the total of all extensions not to exceed 60 days.

Rule 29.15(g).

The mandate had been issued and retained counsel entered an appearance on December 28, 2020, so the amended motion was due within 60 days (i.e., by February 26, 2021). ***Id***. On December 28, 2020, retained counsel requested an initial extension of 30 days to file an amended motion. The motion court granted the requested extension the following day. Therefore, Woolard's first request for an extension and the court's decision to grant it were both timely.

The last day of this 30-day extension (or 90 days from the entry of retained counsel) fell on March 28, 2021, which was a Sunday. Therefore, the amended motion was due on March 29, 2021. *See* Rule 44.01(a) (when computing a due date for a filing, "[t]he last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of

the next day which is neither a Saturday, Sunday nor a legal holiday"). On March 29, 2021, retained counsel filed a request for an additional 30-day extension to file the amended motion. The deadline to file the amended motion expired on that same date. Retained counsel's request for a second extension was not granted by the court until March 30, 2021, one day too late. The amended motion was not filed until April 27, 2021.

It is well settled that the motion court lacked the authority to grant another extension after the filing deadline expired. *See, e.g.*, ***Clemmons v. State***, 785 S.W.2d 524, 527 (Mo. banc 1990); ***Lauck v. State***, 667 S.W.3d 684, 687 (Mo. App. 2023); ***Courtois v. State***, 667 S.W.3d 161, 163 (Mo. App. 2023); ***Johnson v. State***, 660 S.W.3d 78, 81 (Mo. App. 2023); ***Jones v. State***, 643 S.W.3d 918, 921-22 (Mo. App. 2022); ***Perkins v. State***, 569 S.W.3d 426, 435 (Mo. App. 2018). Therefore, the amended motion was untimely, and none of those claims were properly before the motion court. *See* ***Scott***, 719 S.W.3d at 729 n.4; ***Watson v. State***, 536 S.W.3d 717, 717 (Mo. banc 2018).

As the State correctly argues, the abandonment doctrine has no application to retained counsel. *See* ***Scott***, 719 S.W.3d at 728; ***Gittemeier v. State***, 527 S.W.3d 64, 69 (Mo. banc 2017). Because the abandonment doctrine does not apply, the claims in Woolard's untimely amended motion are waived. ***Gittemeier***, 527 S.W.3d at 71.

Lack of Finality Requires Dismissal of the Appeal

The untimely filing of the amended motion means that Woolard's *pro se* motion became the operative motion, as it was the only one that was timely filed.

Mack v. State, 716 S.W.3d 260, 262 n.4 (Mo. banc 2025). The motion court only issued findings of fact and conclusions of law with respect to the three claims in the amended motion. These claims were not identical to the claims in Woolard's *pro se* motion, which were not acknowledged, adjudicated, or disposed by the motion court's order. [2]

Because the motion court did not acknowledge, adjudicate, and dispose of all claims in Woolard's *pro se* motion, we are required to dismiss the appeal for lack of finality. *See, e.g.*, Rule 29.15(j) (requiring the motion court to issue findings of fact and conclusions of law on all issues presented, whether or not a hearing is held); ***Mack***, 716 S.W.3d at 262 n.4; ***Bruner v. State***, 711 S.W.3d 185, 188 (Mo. App. 2025); ***Beerbower v. State***, 699 S.W.3d 556, 560 (Mo. App. 2024); ***Garretson v. State***, 695 S.W.3d 255, 263 (Mo. App. 2024). Dismissal is required for Woolard to receive the process that justice requires for his *pro se* claims. *See* ***Moore v. State***, 458 S.W.3d 822, 826 n.3 (Mo. banc 2015) (because the motion court did not reference the

[2] The State argues that Woolard abandoned his *pro se* claims by not presenting evidence about them to the motion court, citing ***Gittemeier***, 527 S.W.3d at 71. That argument lacks merit. In ***Gittemeier***, the only claim in the *pro se* motion was that trial counsel was ineffective for failing to challenge whether an ATV is a motor vehicle for purposes of driving while intoxicated pursuant to § 577.010. As the ***Gittemeier*** opinion noted, "[t]his exact claim was raised in Mr. Gittemeier's untimely amended motion and was rejected by the motion court because Mr. Gittemeier failed to present any evidence to support the claim." ***Gittemeier***, 527 S.W.3d at 71. Failing to present any evidence at the evidentiary hearing on this exact claim, included in both the *pro se* and amended motions, showed that Mr. Gittemeier had abandoned the claim. ***Id***. Here, unlike ***Gittemeier***, Woolard's claims in his *pro se* and amended motions were not the same. Accordingly, the ***Gittemeier*** decision is inapposite and does not support the State's argument.

pro se claims and adjudicate them with written findings of fact and conclusions of law as mandated by Rule 29.15(j), the movant had not received the process that justice requires). As we explained in ***Bruner***:

> When the "*pro se* motion does not raise identical claims to those in the amended motion," and the motion court did not adjudicate all the claims in the *pro se* motion, the motion court's "judgment is not final, and the appeal must be dismissed." [*Garretson*, 695 S.W.3d at 263.] While Counsel's Amended Motion included some of the claims initially raised by Bruner in his *pro se* motion, other claims from the *pro se* motion, including all of the claims of ineffective assistance of appellate counsel, were omitted from the Amended Motion. Consequently, the motion court has not adjudicated all of the claims raised in the *pro se* motion. The motion court's judgment is neither final nor appealable, so we must dismiss this appeal.

Bruner, 711 S.W.3d at 188 (internal brackets omitted).

The appeal is dismissed.

JEFFREY W. BATES, J. – OPINION AUTHOR

JACK A. L. GOODMAN, J. – CONCUR

MATTHEW P. HAMNER, J. – CONCUR