MISSOURI COURT OF APPEALS
WESTERN DISTRICT

WILLIAM M. CHAMNESS,	)	
	)	
Appellant,	)	**WD87658**
	)	
v.	)	**OPINION FILED:**
	)	
STATE OF MISSOURI,	)	**December 2, 2025**
	)	
Respondent.	)	
	)	

Appeal from the Circuit Court of Callaway County, Missouri
Honorable J. Hasbrouck Jacobs, Judge

Before Division One: Janet Sutton, Presiding Judge,
Gary D. Witt, Judge, and W. Douglas Thomson, Judge

William Chamness (Chamness) appeals from the judgment of the Circuit Court of Callaway County, Missouri (motion court), which denied his *pro se* Rule 29.15[1] motion for post-conviction relief after an evidentiary hearing. In his sole point on appeal, Chamness argues that the motion court clearly erred in denying his Rule 29.15 motion because he claims that he received ineffective assistance of counsel when his trial counsel failed to strike a purportedly biased juror. We affirm.

[1] Rule references are to the Missouri Supreme Court Rules (2020).

Factual and Procedural Background

Chamness was a family friend living with Victim One and Victim Two, who were cousins, beginning in January 2011 until he abruptly moved to Colorado in late April or early May 2016. Over time, Chamness repeatedly engaged in various sexual activities with Victim One and Victim Two, resulting in the State charging Chamness with four counts of first-degree statutory rape, ten counts of first-degree statutory sodomy, and two counts of first-degree child molestation. Victim One was eight years old when the abuse began and fourteen or fifteen years old when it ended. Victim Two was seven or eight years old when the abuse began and twelve years old when the abuse ended. The case proceeded to a jury trial.

At the beginning of jury selection, the State told the venire that the attorneys were going to ask them questions and that they should answer by raising their hands. The State informed the venire that anyone not raising their hand in response to a question was actually providing an answer. The State reiterated, "So realize when I ask a question, and you don't raise your hand, you are affirmatively telling me the answer is no or doesn't apply." Later, the State asked the venire if anyone would be unable to determine the believability of a witness by evaluating the witness and their demeanor while testifying. No one raised their hand. At the end of the State's voir dire, the State asked if there was anything else that might keep anyone from being fair and impartial, and no one raised their hand.

During his voir dire, Chamness' trial counsel asked if anyone had children or spent time around children, and multiple jurors raised their hands. Trial counsel then asked, "Anyone here, based on their relationship with or having, knowing, spending time around children, going to give them more credibility than not?" Juror Sixteen responded, "I think I would." Trial counsel responded, "So we're going to start over here. Juror Eight, you raised your hand." After asking

Juror Eight a series of questions, trial counsel asked, "Next hand over here? Anyone else?" Trial counsel then called on others who had raised their hands, including Jurors Six, Twelve, Seventeen, and Twenty-One, asking them follow-up questions like: "Do you think that you could judge based on the evidence with the understanding that the children are going to be testifying over the course of this," and, "Despite the fact that you have or have been around children, [do] you think that you could remain even and listen to these kids, even though they're not yours?"

Trial counsel then asked if he had missed anyone, and two more jurors—neither of whom was Juror Sixteen—raised their hands, and Trial counsel questioned them. Trial counsel then asked a third time if he had missed anyone, and the transcript reflects that Juror Sixteen did not raise her hand at any point during this questioning.

During strikes for cause, the State successfully struck five jurors who had indicated they would give a child more credibility in the case, or otherwise could not be fair and impartial, and Chamness' trial counsel also struck two additional jurors who had raised their hands in response to the "child-credibility" questions. Neither party moved to strike Juror Sixteen, who ultimately sat on Chamness' jury.

At the trial, Victim One, Victim Two, their mothers, law enforcement, and Chamness testified. The jury found Chamness guilty of four counts of first-degree statutory rape, nine counts of first-degree statutory sodomy, and one count of first-degree child molestation. Chamness waived jury sentencing and the trial court sentenced Chamness to a total of ninety years' imprisonment: fifteen years for the first-degree child molestation count, and thirty years for each of the remaining counts. The trial court ordered the sentences to run concurrently, with the exception of one of the first-degree statutory rape counts and one of the first-degree statutory

sodomy counts, which the trial court ordered to run consecutive to each other and to the remaining counts.

We affirmed Chamness' convictions and sentence on direct appeal in a *per curiam* order and unpublished memorandum. *State v. Chamness*, 609 S.W.3d 874 (Mo. App. W.D. 2020).

Chamness timely filed a *pro se* motion for post-conviction relief, which asserted six claims, and within those six claims, numerous subparts. Only one of Chamness' six claims alleged ineffective assistance by his trial or appellate counsel. The claims alleged in paragraph 8 of Chamness' motion were:

> a) Prosecutorial misconduct, malfeasance, fraud, and forgery
>
> b) Malfeasance, conflict of interest, constructive malice, ***ineffective assistance of defense and appellate counsel***, denied the benefit of counsel
>
> c) Judicial misconduct, malfeasance, judicial bias, fraud, and forgery
>
> d) Conviction obtained by action of petit jury that was unconstitutionally selected and impaneled
>
> e) Denied of right to appeal
>
> f) Defective indictment

(Emphasis added.)

This appeal involves only claim 8(D), which was labeled, "Conviction obtained by action of petit jury that was unconstitutionally selected and inpaneled [sic]." With respect to claim 8(D), Chamness' *pro se* motion alleged that Juror Sixteen "unequivocally stated" in voir dire that she "might be or would be" biased. Chamness alleged that neither the trial court, nor the State, nor his trial counsel attempted to rehabilitate Juror Sixteen and that this was "negligent" on the part of the State, the trial court, and his trial counsel. Chamness claimed this "neglect" allowed a biased juror to sit as a member of the jury and, as a result, Chamness was deprived of a fair and impartial jury.

Post-conviction counsel entered on the case and timely filed a statement in lieu of an amended motion. The trial court held an evidentiary hearing on Chamness' *pro se* motion. Chamness, an attorney who worked on his case before trial, his trial counsel, and his appellate counsel testified.

As relevant to claim 8(D), at the evidentiary hearing on Chamness' post-conviction motion, trial counsel testified that he did not remember hearing Juror Sixteen's statement, and, that his staff did not alert him to it. Trial counsel testified that he believed his staff would have alerted him if they had heard Juror Sixteen's statement so that he could follow up with the juror. He agreed that, after asking his general question to the entire venire, he spoke to multiple jurors who raised their hands, individually asking them specific questions to try to "ferret out" whether they would be biased. Trial counsel then testified that he did not follow up with Juror Sixteen, speculating that was "just [him] missing hands."

After taking the matter under advisement, the motion court issued its findings of fact and conclusions of law denying Chamness' claims for post-conviction relief. In denying claim 8(D), the motion court found that neither trial counsel nor his staff heard Juror Sixteen's statement, and, if they had, trial counsel would have followed up with Juror Sixteen. The motion court also found that the State did not hear the statement, and, if it had, it would have brought it to the trial court's or Chamness' trial counsel's attention because the State had been proactive in striking the jurors who had indicated they could not be fair and impartial. The motion court further found that trial counsel was thorough with his questioning of other jurors after Juror Sixteen's statement. The motion court concluded that trial counsel could not "be held accountable for any lack of follow-up with Juror Sixteen." The motion court also found, as to all claims made by Chamness, that he was not prejudiced by trial counsel's representation.

Chamness appeals the motion court's denial of claim 8(D).

Standard of Review

Our review of the motion court's ruling on a Rule 29.15 motion is limited to whether the motion court's findings and conclusions are clearly erroneous. Rule 29.15(k); *Hosier v. State*, 593 S.W.3d 75, 81 (Mo. banc 2019); *Watson v. State*, 520 S.W.3d 423, 428 (Mo. banc 2017). The findings and conclusions are clearly erroneous when, after reviewing the entire record, we are "left with the definite and firm impression that a mistake has been made." *Watson*, 520 S.W.3d at 428 (citation omitted).

To be entitled to post-conviction relief based on an ineffective assistance of counsel claim, the movant must show, by a preponderance of the evidence, that his or her trial counsel failed to meet *Strickland*'s two-prong test. *Id.* at 435 (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)); *Dillard v. State*, 699 S.W.3d 477, 483 (Mo. App. W.D. 2024). The movant must establish that (1) counsel's performance was deficient, and (2) the deficient performance prejudiced the movant. *Watson*, 520 S.W.3d at 435.

Discussion

Chamness raises a single point on appeal, arguing that the motion court clearly erred when it denied claim 8(D) in his Rule 29.15 motion. On appeal, Chamness contends that he was denied effective assistance of counsel when his trial counsel failed to strike a purportedly biased juror, and he was prejudiced because the juror ultimately sat on the jury.

First, we address the State's contention that it is unclear whether claim 8(D) in Chamness' post-conviction motion—the claim Chamness is appealing—is the same as the ineffective assistance of counsel issue he raises on appeal. We conclude that claim 8(D) in his

Rule 29.15 motion and the ineffective assistance of counsel issue Chamness brings on appeal are materially different.[2]

Although claim 8(D) and the issue raised in his sole point relied on share a factual nexus—Juror Sixteen's statement during jury selection and the failure to strike her—claim 8(D) raises a freestanding constitutional claim that Chamness was denied his right to a fair and impartial jury because his conviction was obtained by a jury that was unconstitutionally selected and impaneled. In claim 8(D), Chamness blamed the State, the trial court, and his trial counsel for acting negligently with respect to Juror Sixteen. Specifically, Chamness stated that the trial court, the State, and his trial counsel made no attempt to rehabilitate the juror, that it was "negligent" on their part, and this "neglect" led to a biased juror sitting as a member of the jury. On appeal, however, Chamness attempts to recast claim 8(D) as an ineffective assistance of counsel claim; he argues that his trial counsel was ineffective for failing to strike Juror Sixteen for cause. Unlike claim 8(B), claim 8(D) in Chamness' *pro se* motion did not allege a claim of ineffective assistance of counsel, however. Moreover, Chamness' motion alleged only that the court, prosecutor and trial counsel had engaged in "neglect" by failing to *rehabilitate* Juror Sixteen; his motion never suggested that trial counsel should have moved to *strike* Juror Sixteen for cause. Chamness is not permitted to refine claim 8(D) on appeal to instead assert ineffective assistance of trial counsel when that is not what claim 8(D) alleged in the motion court.

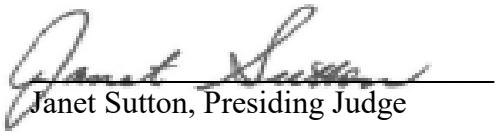
[2] Chamness also alleged, in claim 8(B) in his Rule 29.15 motion, "Malfeasance, Conflict of Interest, Constructive Malice, Ineffective Assistance of Defense and Appellate Counsel, Denied the Benifit [sic] of Counsel." Claim 8(B) included fifty-five subparts, including subpart forty-one, where Chamness alleged that his trial counsel refused to investigate or rehabilitate Juror Sixteen. Chamness is not appealing the motion court's denial of claim 8(B) generally, or subpart forty-one in particular.

"A post-conviction claim on appeal that materially differs from that alleged in a post-conviction motion preserves nothing for appellate review and is waived." *Moss v. State*, 540 S.W.3d 427, 432 (Mo. App. E.D. 2018) (quoting *Johnson v. State*, 369 S.W.3d 87, 90 (Mo. App. W.D. 2012)). A claim alleging that the State, the trial court, and trial counsel acted negligently with respect to a purportedly biased juror resulting in an unconstitutionally selected and impaneled jury is materially different from an ineffective assistance of counsel claim related only to trial counsel's actions in failing to strike a juror.

Because the issue Chamness brings on appeal is materially different from the claim he raised in claim 8(D) in his Rule 29.15 motion, it has not been preserved for appeal and is waived. *See id*.; *Johnson*, 369 S.W.3d at 90. Chamness' sole point on appeal is denied.

Conclusion

The motion court's judgment is affirmed.



Janet Sutton, Presiding Judge

Gary D. Witt, J., and W. Douglas Thomson, J. concur.