MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JOSEPH FOSTER, Appellant,
v.
STATE OF MISSOURI, Respondent.

DOCKET NUMBER WD87961

DATE: November 3, 2026

Appeal From:

Clay County Circuit Court
The Honorable Shane Terril Alexander, Judge

Appellate Judges:

Division Two: Mark D. Pfeiffer, Presiding Judge, Cynthia L. Martin, Judge, and W. Douglas Thomson, Judge

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Attorneys:

Jonathan Sternberg, Bryan Cox, Kansas City, MO, for Appellant.

Kristen Johnson, Jefferson City, MO, for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT

JOSEPH FOSTER, Appellant,
v.
STATE OF MISSOURI, Respondent.

WD87961 Clay County

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, Cynthia L. Martin, Judge and W. Douglas Thomson, Judge

Joseph Foster appeals from the motion court's judgment denying his Rule 29.15 post-conviction motion. Foster argues that the motion court clearly erred in denying his claim that he was deprived of his Sixth Amendment right to effective assistance of counsel because his trial counsel had an actual conflict of interest that adversely affected the adequacy of his representation. Foster's allegation of an actual conflict of interest relied on the fact that trial counsel charged a flat fee that Foster claimed was insufficient for the work required.

AFFIRMED.

Division Two holds:

Foster's post-conviction motion alleged that the flat-fee arrangement adversely affected his trial counsel's representation in three respects: (a) trial counsel failed to investigate and present impeachment evidence at trial; (b) trial counsel failed to litigate the motion for new trial adequately; and (c) trial counsel advised him to proceed to a bench trial rather than a jury trial. Despite making these allegations in his post-conviction motion, Foster failed to present evidence at the evidentiary hearing establishing that these strategic decisions represented choices that were impaired by trial counsel's inability to exercise independent judgment because of the flat-fee arrangement. Accordingly, the motion court did not clearly err in concluding that Foster failed to meet his burden to establish an actual conflict of interest because he did not prove that the flat-fee arrangement had an adverse effect on the adequacy of trial counsel's representation.

Opinion by: Cynthia L. Martin, Judge November 3, 2026

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