MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RODGER L. GANNAN, Appellant,
v.
STATE OF MISSOURI, Respondent.

DOCKET NUMBER WD88297

DATE: November 10, 2026

Appeal From:

Sullivan County Circuit Court
The Honorable Terry A. Tschannen, Judge

Appellate Judges:

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

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Attorneys:

Mark A. Grothoff, Assistant Public Defender, Columbia, MO, for Appellant.

Catherine L. Hanaway, Attorney General, and Kristen S. Johnson, Assistant Attorney General, Jefferson City, MO, for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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v.
STATE OF MISSOURI, Respondent.

WD88297 Sullivan County

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

Mr. Rodger Gannan ("Gannan") appeals from the judgment of the Circuit Court of Sullivan County, Missouri ("motion court"), denying, after an evidentiary hearing, his motion for post-conviction relief ("PCR motion") pursuant to Rule 29.15.

E.H. ("Victim"), a female, was born in 2005, to S.B. ("Mother") and J.H. ("Father"). Mother and Father separated in 2006 and divorced in 2012. Mother and Father shared custody of Victim and her older sister ("Sister"), and the girls traveled back and forth between their parents' residences. In 2010 or 2011, Mother began dating Gannan, and Mother married Gannan in 2012.

On September 15, 2018, Victim spent the night at Aunt's house. Early on September 16, Victim confided in Aunt that Gannan had been touching Victim inappropriately since they lived in their first Brookfield house. Victim then recounted numerous instances of sex abuse by Gannan.

After follow-up conversation with Aunt, Mother and Father took Victim to the Brookfield Police Department where Victim, again, recounted numerous instances of sexual abuse by Gannan. Victim later participated in a forensic interview at the Children's Advocacy Center ("CAC") and similarly told the interviewer of the abuse by Gannan.

During a two-day jury trial in March 2021, Victim, among others, testified, and a video of Victim's CAC interview was admitted into evidence and viewed by the jury. During her trial testimony, Victim detailed the years of sexual abuse Gannan subjected her to.

Victim's father testified that, after Victim disclosed Gannan's abuse, Victim experienced depression, anxiety, suicidal thoughts, self-harm, fights at school, hospitalization for mental health, and monthly counseling. Victim's sister testified that,

after Victim disclosed the abuse, Victim had "lots of depression, anxiety, lots of anger," had been to a "mental hospital" five times, and would have trouble sleeping. Victim's biological mother testified that, after Victim disclosed the abuse, Victim was angry, withdrawn, anxious, self-harming, and suffering from terrible nightmares, in which she would "swing her arms like she's fighting somebody off" and say things like, "Mommy, he's here."

Gannan testified in his own defense at trial. He denied ever touching Victim inappropriately, denied having sexual relations with her, and denied paying her for sex.

At the conclusion of the evidence and closing argument, the jury found Gannan guilty of the sex crimes he was charged with after deliberating for only 30 minutes.

After Gannan's convictions were affirmed in his direct appeal to this Court, Gannan filed his pro se Rule 29.15 PCR motion. Gannan argued that his trial counsel provided ineffective assistance when failing to object to the admission of testimony from Victim and Victim's family members. On April 9, 2025, an evidentiary hearing ("PCR hearing") was held before the motion court. At the PCR hearing, Gannan's trial counsel testified. Trial counsel testified that it was a matter of trial strategy to not object to the testimony that Gannan complained about because he had hoped to use testimony of Victim's fragile mental status to bolster the defense theory that Victim was lying. Trial counsel also testified that he believed any relevancy objection likely would have been overruled.

On July 29, 2025, the motion court entered its judgment denying Gannan's PCR motion for failure to satisfy both the *Strickland* performance prong and the *Strickland* prejudice prong.

Gannan timely appealed the motion court's judgment. In Point I, Gannan argues that trial counsel should have objected when the State asked Victim's father, mother, and sister questions regarding Victim's behavior and personality changes after the September 2018 disclosures. In Point II, Gannan makes a similar argument about Victim's testimony on the same topics.

AFFIRMED.

Division Two holds:

1. Counsel will not be held ineffective for failing to make a nonmeritorious objection. An objection in this instance would have been nonmeritorious because the testimony was both logically and legally relevant. Evidence is logically relevant if it tends to make the existence of a material fact more or less probable. Logically relevant evidence is admissible only if legally relevant. Legal relevance weighs the probative value of the evidence against its costs—unfair prejudice, confusion of the issues,

misleading the jury, undue delay, waste of time, or cumulativeness. Here, the testimony from Victim's family members regarding how she behaved following her disclosures was logically relevant because common experience teaches us a sexual offense can cause behavioral and personality changes in the victim. Additionally, the testimony was legally relevant as evidence of physical and psychological changes in the victim is relevant to prove the elements of the sexual offense itself and thus may be admitted to show the offense did in fact occur. In these circumstances, the motion court did not clearly err in concluding that a legal relevance objection would have been meritless and overruled. Therefore, Gannan did not meet his burden of establishing the *Strickland* performance prong and, thus, we need not discuss the *Strickland* prejudice prong. The motion court did not err in rejecting Gannan's claim of ineffective assistance of counsel.

Opinion by: Mark D. Pfeiffer, Presiding Judge November 10, 2026

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