

**Missouri Court of Appeals, Western District
Special Division**

**Anthony Rex Gabbert, Chief Judge, Presiding
Alok Ahuja, Judge
Karen L. Krauser, Special Judge**

**April 14, 2025
University of Missouri-Kansas City School of Law
Kansas City, Missouri**

WD86459

Justin Fields, Appellant,

v.

State of Missouri, Respondent.

Appellant Justin Fields appeals the judgment of the Circuit Court of Jackson County denying his Rule 29.15 motion for post-conviction relief. In 2013, Fields was sentenced to eighteen years' imprisonment for attempted forcible rape. Evidence at trial showed that Victim was at a club when she ran into her cousin and his friend, Fields. Victim needed a ride home, and her cousin drove Victim and Fields to Victim's apartment. Victim agreed that her cousin and Fields could stay in her apartment until her cousin was sober enough to drive. Victim testified that, during this time, Fields came into her room and tried to forcibly put his penis in her vagina. Her cousin then interrupted the act, the Victim ran and got a knife, and Victim informed the two men she had called the police. The two men then fled the apartment. Fields maintained the sexual encounter was consensual. As relevant to this appeal, Field's post-conviction motion maintained that his trial counsel was ineffective for failing to investigate, present, or cross-examine Victim about text messages she sent regarding the assault. Fields alleged that the texts presented a different version of the events than Victim's testimony at trial. Fields' post-conviction motion also alleged that the prosecutor engaged in misconduct during trial when she argued that Victim "never faltered" in her allegations against Fields. The motion court found that trial counsel had a reasonable strategy for failing to use the text messages and that Field was not prejudiced by any failure. The motion court also found that Fields failed to show that he was prejudiced by the prosecutor's statement. This appeal followed.

Appellant's points on appeal:

1. The motion court clearly erred in denying claim 8/9(a) of Justin Fields' 29.15 amended motion, in violation of his rights to due process, a fair trial, and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth

Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it found trial counsel was not ineffective when she failed to cross-examine Victim with text messages that contained a different version of the allegations than Victim testified to at trial, because it is unreasonable to not cross-examine a complaining witness with a prior inconsistent statement about the alleged incident when the entire trial turns on the complaining witness's credibility, prejudice results in a close case when the error goes to the central issue in the case, and prejudice is assessed by weighing the strength of the evidence in a case and the potential impact of the error, in that trial counsel had text messages from Victim that recounted a different version of the alleged incident than the one she testified to and there is no reasonable strategy that could justify trial counsel's failure to use them, the text messages went to the sole issue in the case – Victim's credibility, and the closeness of the case and magnitude of the error require a finding of prejudice.

2. The motion court clearly erred in denying claim 8/9(b) of Justin Fields' 29.15 amended motion, in violation of his rights to due process, a fair trial, and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it found no prosecutorial misconduct, because a prosecutor engages in misconduct when she misleads the jury by arguing as true something she knows or should know is false, prejudice results in a close case when the error goes to the central issue in the case, and prejudice is assessed by weighing the strength of the evidence in a case and the potential impact of the error, in that the prosecutor argued Victim "never faltered" in her basic allegations when the prosecutor had in her possession text messages from Victim to a friend that contained a completely different version of the alleged incident, the misleading argument went to the sole issue in the case – Victim's credibility, and the closeness of the case and magnitude of the error require a finding of prejudice.

WD87159

Claudette Clement Emile, Appellant,

v.

Triumph Foods, LLC, Respondent.

Appellant Claudette Emile appeals from the judgment of the Circuit Court of Buchanan County entering summary judgment in favor of Respondent Triumph Foods on Emile's claims for discrimination and retaliation. Emile alleged that she was a general production worker for Triumph Foods from June 2014, until she was constructively discharged in

November 2022. During her employment, Emile had a bladder surgery that left her with difficulty holding her bladder. She provided Triumph Foods with a note from her physician that said she needed additional emergency bathroom breaks throughout the day. As alleged in the petition, Emile claimed that she was regularly denied emergency bathroom breaks and that, on three occasions –which occurred in June 2017, August 2021, and May 2022—she soiled herself because she was not allowed to take restroom break. On November 8, 2022, while on leave under the Family and Medical Leave Act (“FMLA”), Emile resigned. She alleged in her resignation letter that she had to resign because she was refused medically necessary restroom breaks. Emile filed a claim against Triumph Foods asserting that she believed she was discriminated against because she was Black and Haitian, discriminated against because of a disability, and she also brought a claim for retaliation related to a worker’s compensation claim she previously filed. The circuit court entered summary judgment in favor of Triumph Foods on all three claims. This appeal followed.

Appellant’s points on appeal:

1. The trial court erred in granting summary judgment on Ms. Emile's Missouri Human Rights Act claim based on her race, and national origin, (Black/Haitian), because genuine issues of material fact exist regarding whether her race or national origin was a determining factor in the discriminatory actions taken against her, in that the record contains two plausible, but contradictory accounts of essential facts regarding discriminatory intent, and pretext.
2. The trial court erred in summary judgment on Ms. Emile's claim for disability discrimination under the Missouri Human Rights Act, because genuine issues of material fact exist regarding whether she was disabled, as defined under the Missouri Human Rights Act, and whether her disability was a determining factor in the adverse employment actions taken against her, and pretext.
3. The trial court erred in granting summary judgment on Ms. Emile's claim for retaliation in violation of the Missouri Human Rights Act, because genuine issues of material fact exist regarding whether her protected activity was a determining factor in the discriminatory actions taken against her, in that she complained of discrimination and opposed what she believed in good faith was discrimination on the basis of her race, and disability, and the defendant's reasons for retaliating against her were pretextual.

WD86734

Patrick Ryan Powell, Appellant,

v.

State of Missouri, Respondent.

Appellant Patrick Powell appeals the judgment of the Circuit Court of Jackson County denying his Rule 29.15 motion for post-conviction relief. In 2019, Powell was sentenced to life imprisonment without the possibility of parole for murder in the first-degree and armed criminal action. As established at trial, Victim was shot and killed in the upper floor of a duplex where he lived on November 11, 2017. Victim's girlfriend witnessed the shooting. In various statements and testimony, Victim's girlfriend stated that either the shooter identified himself as "Patrick," that Victim identified the shooter as "Patrick" or that the downstairs' landlord told Victim that it was "Patrick" who had shot Victim. In addition to girlfriend's identification, Powell was connected to the crime through surveillance videos from near the shooting. Further, the police found photographs of a gun and vehicle linked to Powell on Victim's phone. A jury found Powell guilty of first-degree murder and armed criminal action. The conviction was affirmed on appeal. In his post-conviction motion, Powell asserted that his trial counsel was ineffective in a number of ways. The motion court denied Powell's post-conviction motion. This appeal followed.

Appellant's points on appeal:

1. The motion court clearly erred in denying claim 8/9(a) of Mr. Powell's Rule 29.15 amended motion, in violation of Mr. Powell's rights to due process and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it found that counsel's failure to object to the gun photos for lack of foundation was supported by trial strategy and Mr. Powell was not prejudiced, because failure to object is ineffective assistance when it is not supported by objectively reasonable strategy, the objection would have been meritorious, and prejudice results, in that no objectively reasonable strategy supports wanting the jury to see evidence that a gun bought by Mr. Powell's mother that is the same caliber used in the shooting was in photographs on the victim's phone, the objection would have been meritorious because the State could not lay adequate foundation for the photos, and Mr. Powell was prejudiced because the exclusion of these photos would have changed the evidentiary picture, creating a reasonable probability of a different outcome.
2. The motion court clearly erred in denying claim 8/9(b) of Mr. Powell's Rule 29.15 amended motion, in violation of Mr. Powell's rights to due process and effective assistance of counsel, under the Fifth, Sixth, and

Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it found that counsel's failure to object to the gun photos on legal relevancy grounds was supported by trial strategy and Mr. Powell was not prejudiced, because failure to object is ineffective assistance when it is not supported by objectively reasonable strategy, the objection would have been meritorious, and prejudice results, in that no objectively reasonable strategy supports wanting the jury to see evidence that a gun bought by Mr. Powell's mother that is the same caliber used in the shooting was in photographs on the victim's phone, the objection would have been meritorious because the photos would fail the legal relevance balancing test, and Mr. Powell was prejudiced because the exclusion of these photos would have changed the evidentiary picture, creating a reasonable probability of a different outcome.

3. The motion court clearly erred in denying claim 8/9(d) of Mr. Powell's Rule 29.15 amended motion, in violation of Mr. Powell's rights to due process and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it found that counsel's failure to object to the McDonald's video for lack of foundation was supported by trial strategy and Mr. Powell was not prejudiced, because failure to object is ineffective assistance when it is not supported by objectively reasonable strategy, the objection would have been meritorious, and prejudice results, in that no objectively reasonable strategy supports wanting the jury to see evidence that Mr. Powell was in the vicinity of the shooting at the time of the shooting with Powell's girlfriend after she had gone to pick up a gun from the victim, the objection would have been meritorious because the State could not lay adequate foundation for the video, and Mr. Powell was prejudiced because the exclusion of this video would have changed the evidentiary picture, creating a reasonable probability of a different outcome.
4. The motion court clearly erred in denying claim 8/9(g) of Mr. Powell's Rule 29.15 amended motion, in violation of Mr. Powell's rights to due process and effective assistance of counsel, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10 and 18(a) of the Missouri Constitution, when it found that counsel's failure to introduce evidence that Victim's girlfriend knew Victim's friend had a boyfriend named Patrick before the shooting was supported by trial strategy and Mr. Powell was not prejudiced, because failure to introduce evidence is ineffective assistance when no objectively reasonable strategy supported the failure, it would have aided the defense, and prejudice results,

in that no objectively reasonable strategy supports failing to explain how Victim's girlfriend gave the name Patrick for the shooter if the shooter or Victim did not identify him as Patrick, introduction of this evidence would have supported the defense that Mr. Powell was not the shooter, and Mr. Powell was prejudiced because the admission of this evidence would have changed the evidentiary picture, creating a reasonable probability of a different outcome.

5. The motion court clearly erred in denying claim 8/9(h) of Mr. Powell's Rule 29.15 amended motion, in violation of Mr. Powell's right to due process, under the Fifth and Fourteenth Amendments to the United States Constitution, and Article I, § 10 of the Missouri Constitution, when it found that the undisclosed evidence about Detective W.'s disciplinary history was not material, because evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding might have been different, in that the undisclosed evidence could have been used to impeach Detective W., who testified as to the accuracy of the McDonald's surveillance footage based on what he did not document in his report, the undisclosed material concerned the accuracy and credibility of Detective W. and his reports, and the accuracy of the McDonald's timestamp was central to the State's case identifying Mr. Powell as the shooter.