

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CAVONA C. FLENOY

APPELLANT,

**v.
STATE OF MISSOURI**

RESPONDENT.

DOCKET NUMBER WD76722

DATE: October 28, 2014

Appeal From:

Platte County Circuit Court
The Honorable Owens Lee Hull, Jr., Judge

Appellate Judges:

Division Three: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Attorneys:

S. Kate Webber, Kansas City, MO, for appellant.

Dora Fichter, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CAVONA C. FLENOY,

APPELLANT,

v.

STATE OF MISSOURI,

RESPONDENT.

No. WD76722

Platte County

Before Division Three: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Cavona C. Flenoy appeals the denial of her Rule 24.035 motion following an evidentiary hearing. Flenoy claims her trial counsel failed to adequately advise her about the law of self-defense given her youth and mental health issues, and that but for her failure to understand the law of self-defense as applied to her case, she would not have chosen to plead guilty. Because Flenoy's claim on appeal was not asserted in her post-conviction motion, the claim has been waived and is not subject to our review.

AFFIRMED

1. Rule 24.035 prohibits appellate review of any claim of ineffective assistance of counsel that is not timely raised in a Rule 24.035 motion.

2. Flenoy's Rule 24.035 alleged that she was inaccurately advised by trial counsel about the law of self-defense. On appeal, Flenoy asserts that she was inadequately advised about the law of self-defense in light of her youth and mental health issues. An allegation that trial counsel affirmatively misrepresented the law is materially different from an allegation that trial counsel provided accurate advice but failed to insure that the movant understood the advice.

3. Flenoy's claim on appeal is thus different from the claim raised in her Rule 24.035 motion and determined by the motion court. Because the claim of ineffective assistance of counsel raised on appeal was not raised in Flenoy's Rule 24.035 motion, it is waived.

Opinion by Cynthia L. Martin, Judge

October 28, 2014

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