

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

D'ANDRE HAYES,)	No. ED101811
)	
Movant/Appellant,)	Appeal from the Circuit Court of
)	the City of St. Louis
vs.)	
)	Honorable Thomas J. Frawley
STATE OF MISSOURI,)	
)	
Respondent.)	Filed: July 21, 2015

D'Andre Hayes appeals the judgment of the Circuit Court of the City of St. Louis denying his Rule 24.035 motion for post-conviction relief without an evidentiary hearing. On appeal, Hayes contends the motion court clearly erred in denying, without holding an evidentiary hearing, his claim that he received ineffective assistance of counsel.

REVERSED AND REMANDED.

DIVISION ONE HOLDS: Because Hayes's allegation of ineffective assistance of counsel is not refuted by the record, the judgment of the motion court denying Hayes an evidentiary hearing was clearly erroneous. Hayes is entitled to an evidentiary hearing to determine whether his plea was voluntarily made and whether he was prejudiced.

Opinion by: Lisa S. Van Amburg, C.J.,
Lawrence E. Mooney, P.J. and Clifford H. Ahrens, J. concur.

Attorney for Appellant: Andrew E. Zleit

Attorney for Respondents: Dora A. Fichter

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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