

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

DAVID G. DEPRIEST, ) ED102307  
 )  
 Appellant, ) Appeal from the Circuit Court  
 ) of St. Francois County  
 v. ) 14SF-CC00103  
 ) Honorable Kenneth W. Pratte  
 STATE OF MISSOURI, )  
 )  
 Respondent. ) Filed: October 27, 2015

David DePriest (Movant) appeals the denial of his motion to vacate his guilty plea under Rule 24.035, Mo. R. Civ. P. (2014), without an evidentiary hearing. He argues his plea was involuntary due to an actual conflict of interest because Movant’s attorney also represented Movant’s sister Natalie, who was charged with the same drug offenses, based on the same evidence, the majority of which the police found in Movant’s bedroom in the residence Movant and Natalie shared. Movant also argues his plea was involuntary due to the trial court’s group-guilty-plea proceeding, which resulted in Movant and Natalie pleading guilty at the same time.

REVERSED.

Division Two Holds: Movant alleged unrefuted facts demonstrating his counsel labored under a conflict of interest by representing Movant and Natalie, when counsel believed they had differing levels of culpability and the State required them both to plead guilty in order for Natalie to receive any benefit. The trial court’s group-plea procedure compounded the problem. In particular here, the trial court’s failure to recognize the actual conflict of interest in counsel’s representation of Movant and Natalie, and the court’s choice to continue the group plea despite awareness of the contingent plea agreement with the State, contributed to the injustice here and rendered Movant’s plea involuntary.

Opinion by: Gary M. Gaertner, Jr., J.  
 Philip M. Hess, P.J., and Angela T. Quigless, J., concur.

Attorney for Appellant: Lisa M. Stroup  
 Attorneys for Respondent: Chris Koster, Shaun J. Mackelprang

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