

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION TWO**

BRIAN MANN,	)	No. ED102368
	)	
Movant/Appellant,	)	Appeal from the Circuit Court of
	)	the City of St. Louis
vs.	)	
	)	Honorable Thomas C. Grady
STATE OF MISSOURI,	)	
	)	
Respondent.	)	Filed: November 10, 2015

Brian Mann (Movant) appeals the judgment of the Circuit Court of the City of St. Louis denying his Rule 29.15 motion for post-conviction relief. In his sole point on appeal, Movant claims that the motion court clearly erred by denying his post-conviction motion without an evidentiary hearing because he pleaded facts unrefuted by the record that trial counsel was ineffective for failing to retain a blood splatter expert, whose testimony would have enhanced Movant’s alibi defense.

REVERSED AND REMANDED.

Division II Holds: The amended motion was untimely filed and the motion court made no independent “abandonment” inquiry. Under *Moore v. State*, 458 S.W.3d 822 (Mo. banc 2015), a remand is necessary for the motion court to independently inquire whether Movant was abandoned and to further review, consistent with that finding, Movant’s post-conviction claims.

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

Attorney for Appellant: Susan L. Hogan

Attorney for Respondents: Evan J. Buchheim

<b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b>
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