

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

PAUL GITTEMEIER,	)	No. ED103189
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of Warren County
vs.	)	
	)	Honorable Wesley Clay Dalton
STATE OF MISSOURI,	)	
	)	
Respondent.	)	FILED: September 20, 2016

Appellant Paul Gittemeier (“Gittemeier”) appeals from the judgment of the motion court denying his motion for post-conviction relief. Gittemeier filed a timely pro-se motion under Rule 29.15. Gittemeier’s privately retained counsel subsequently filed an amended motion for post-conviction relief, but the amended motion was filed after the mandatory deadline.

TRANSFERRED.

DIVISION FOUR HOLDS: Gittemeier’s amended motion for post-conviction relief was untimely filed. Because the abandonment doctrine applies only to untimely amended motions for post-conviction relief filed by court-appointed counsel, the doctrine did not extend the mandatory deadline for Gittemeier to file an amended motion. Thus, we may consider only the issues raised by Gittemeier in his pro-se motion. On appeal, Gittemeier does not challenge the motion court’s decision relating to his pro-se claim, but focuses solely on the motion court’s judgment relating to the claims raised only in his amended motion. Because we cannot consider the claims raised by Gittemeier in his untimely amended motion, we deny each point on appeal.

Our resolution of this appeal would normally result in an affirmance of the motion court’s judgment. However, in light of the importance of the issue presented and for guidance regarding the applicability of the abandonment doctrine in cases where an amended motion for post-conviction relief is filed untimely by counsel not appointed by the motion court, but counsel privately retained by the movant, we order this case transferred to the Missouri Supreme Court pursuant to Missouri Rule of Civil Procedure 83.02.

Opinion by: Kurt S. Odenwald, Judge  
Gaertner, Jr., J., concur.

James M. Dowd, P.J., and Gary M.

Attorney for Appellant: Richard H. Sindel

Attorney for Respondent: Chris Koster

**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.**