

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

JEFFREY A. CHANDLER,)	No. ED103583
)	
Appellant,)	Appeal from the Circuit Court of
)	Lincoln County
vs.)	14L6-CC00097
)	
STATE OF MISSOURI,)	Honorable James D. Beck
)	
Respondent.)	Filed: October 18, 2016

Jeffrey A. Chandler appeals the denial of his Rule 29.15 motion for post-conviction relief. Chandler contends that trial counsel rendered ineffective assistance by failing to object under *Missouri v. Seibert*, 542 U.S. 600 (2004) to a police detective’s trial testimony that he did not believe Chandler’s denials of committing the charged offenses because his “micro-gestures” during interrogation indicated that he was not telling the truth.

AFFIRMED.

DIVISION IV HOLDS: The motion court did not clearly err in determining that *Seibert* does not support Chandler’s ineffective assistance claim. Chandler admits that there is no evidence that the police detective who interrogated him used the two-step interrogation technique condemned in *Seibert*—which would have involved police twice questioning the defendant, first without and then with the warnings from *Miranda v. Arizona*, 384 U.S. 436 (1966), each time eliciting the same statement, in a calculated effort to undermine the warnings—and there is no evidence in the record to support Chandler’s claim that the technique the detective actually used deprived him of a free and rational choice whether to exercise his rights under *Miranda*.

Here, prior to giving the warnings the detective did not ask any questions regarding the allegations of Chandler’s criminal offenses, nor did Chandler have any reason to suspect that the detective was drawing any particular conclusions about Chandler’s body language while speaking. Thus, after the *Miranda* warnings, Chandler lacked any reason to feel pressured by the detective to express any particular body language when denying that he committed the criminal offenses perpetrated against his daughter, and there is no indication that the detective’s questioning was coercive, or that the *Miranda* warnings the detective gave to Chandler were unlikely to be effective in alerting him to his right not to incriminate himself with respect to his offenses in this case.

Opinion by: James M. Dowd, P.J.

Kurt S. Odenwald, J., and Gary M. Gaertner, Jr., J., concur.

Attorney for Appellant: Ellen H. Flottman

Attorney for Respondent: Karen L. Kramer

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.