

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

RANDALL CRAIG SWOFFORD,	)	No. ED93661
Movant/Appellant,	)	Appeal from the Circuit Court
v.	)	of St. Louis County
STATE OF MISSOURI,	)	Honorable Mark D. Seigel
Respondent/Respondent.	)	Date: September 7, 2010

Movant, Randall Craig Swofford, appeals from a judgment denying on the merits his Rule 29.15 motion for post-conviction relief without an evidentiary hearing.

VACATED AND REMANDED WITH DIRECTIONS TO DISMISS.

Division Two Holds:

1. Movant's failure to timely file his *pro se* Rule 29.15 motion constitutes a complete waiver of any right to proceed under Rule 29.15.
2. This court has the power and duty to enforce the time constraints of Rule 29.15 even if the motion court did not.
3. The state cannot "waive" a movant's failure to timely file his *pro se* Rule 29.15 motion by failing to challenge this failure in the motion court.

Opinion by: Kathianne Knaup Crane, J.  
Glenn A. Norton, P.J. and George W. Draper III, J., concur.

Attorney for Appellant: Maleaner Harvey

Attorneys for Respondent: Attorney General Chris Koster and Assistant Attorney General Mary H. Moore

**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.**