

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION IV

LINDELL BROWDEN,)	No. ED94677
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
v.)	
)	
STATE OF MISSOURI,)	Honorable Margaret Mary Neill
)	
Respondent.)	Filed: April 12, 2011

Lindell Browden (Browden) appeals from the motion court’s denial, without an evidentiary hearing, of his amended Rule 29.15 motion for post-conviction relief. Following a jury trial, Browden was convicted of one count of felony assault and one count of second-degree robbery. He was sentenced to concurrent sentences of twelve years’ imprisonment for the assault and ten years for the robbery. On direct appeal, this Court affirmed the judgment of the trial court in State v. Browden, 285 S.W.3d 429 (Mo. App. E.D. 2009). On appeal, Browden argues the motion court erred in denying his motion for post-conviction relief because of two errors arising from the verdict directing instructions presented to the jury.

AFFIRMED.

Division Four holds: The jury instructions presented to the jury in Browden’s trial were consistent with and did not vary from the language of the State’s charging document, the substitute information. Thus, Browden had notice that the State would proceed at trial under the theory of strangulation and he was not denied any constitutional rights. Similarly, Browden’s trial and appellate counsel had no basis for objecting to or raising this meritless issue on appeal. Finding no error, we affirm the judgment of the motion court.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J., and Daniel Pelikan, Sp. J., Concur.

Attorney for Appellant: Jo Ann Rotermund

Attorneys for Respondent: Chris Koster and 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.