

## Summary of SC88584, *Steven Crenshaw v. State of Missouri*

Appeal from the Circuit Court of the City of St. Louis, the Hon. Julian L. Bush

**Attorneys:** Crenshaw was represented by Gwenda R. Robinson. The state was represented by Joshua N. Corman and Lisa M. Kennedy.

*This summary is not part of the opinion of the Court. It has been prepared by the Communications Counsel for the convenience of the reader. It has been neither reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** This case involves a denial of postconviction relief, which the circuit court reopened after finding the man's postconviction counsel abandoned him by failing to appeal the denial in a timely manner. In a unanimous decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri affirms the circuit court's judgment. The circuit court correctly denied postconviction relief because the ineffective assistance of counsel claim lacks merit.

**Facts:** In May 2002, Steven Crenshaw sought postconviction relief from his convictions for first-degree assault and armed criminal action. The circuit court overruled his motion, and no appeal was filed. In March 2005, Crenshaw moved to reopen his postconviction case. In August 2006, the circuit court found that Crenshaw's postconviction counsel had abandoned him by failing to file a timely notice of appeal, and it effectively reentered its previous order overruling the postconviction relief, thereby restarting the time for Crenshaw to file his notice of appeal. Crenshaw appeals.

### **AFFIRMED.**

**Court en banc holds:** (1) If a court finds that a movant for postconviction relief has been abandoned, the proper remedy is to put the movant where the movant would have been had the abandonment not occurred, which the circuit court did here.

(2) Because Crenshaw's ineffective assistance of counsel claim is without merit, the circuit court correctly denied relief.

(a) Trial counsel was not ineffective for failing to subpoena as a witness a woman who was motivated to testify because she had an intimate relationship with Crenshaw and who assured counsel that she would appear at trial and testify. Based on the witness' conduct, counsel was reasonable in believing she would appear without a subpoena. In addition, the evidence is sufficient to support the court's finding that the woman's testimony at the motion hearing was not credible, that the jury would have been likely to believe her testimony was perjured and, therefore, that her failure to testify at trial did not prejudice Crenshaw.

(b) Crenshaw may not assert ineffective assistance of counsel in moving for a continuance without his consent or knowledge because, at the time of the continuance, Crenshaw was not represented by counsel. He did not qualify for representation by the public defender, and he had not hired an attorney himself.