

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

YNTELL C. DULEY,

Respondent,

v.

STATE OF MISSOURI,

Appellant.

**DOCKET NUMBER WD69962
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

Date: November 24, 2009

Appeal from:
Jackson County Circuit Court
The Honorable Thomas C. Clark, Judge

Appellate Judges:
Division One: Alok Ahuja, Presiding Judge, James M. Smart, Jr. and Lisa White
Hardwick, Judges

Attorneys:
Basil L. North, Jr., Esq., Kansas City, MO, for appellant.
Robert J. Bartholomew, Jr., Esq., Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

YNTELL C. DULEY

Respondent,

v.

STATE OF MISSOURI,

Appellant.

WD69962

Jackson County

Before Division One Judges: Alok Ahuja, Presiding Judge, James M. Smart, Jr., and Lisa White Hardwick, Judges

The State of Missouri appeals from a post-conviction judgment vacating the convictions of Yntell Duley based on prosecutorial nondisclosures that violated the *Brady* rule. The State contends the circuit court erred in granting relief under Rule 29.15 and, alternatively, under Rule 25.18.

AFFIRMED.

Division One holds: The State violated the *Brady* rule by failing to disclose exculpatory evidence that was material to Duley's theory of innocence. Duley was entitled to seek post-conviction relief on this nondisclosure claim because it required the presentation of new evidence and could not be adequately addressed on direct appeal. Thus, the court did not clearly err in granting relief under Rule 29.15. Given the propriety of such relief, there is no need to address the alternative basis for the court's ruling under Rule 25.18. The judgment is affirmed.

Opinion by: Lisa White Hardwick, Judge

November 24, 2009

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