

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

ORLANDO D. HAYES,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

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**DOCKET NUMBER WD70231**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** December 15, 2009

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**Appeal from**

The Circuit Court of Cooper County, Missouri  
The Honorable Robert L. Koffman, Judge

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**Appellate Judges:**

Division Three: Mark D. Pfeiffer, P.J., and Karen King Mitchell and Cynthia L. Martin, JJ.

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**ATTORNEYS**

Mark A. Grothoff, Assistant State Public Defender  
Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General  
Daniel N. McPherson, Assistant Attorney General  
Jefferson City, MO

Attorneys for Respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**ORLANDO D. HAYES,** )  
 )  
 **Appellant,** )  
 **v.** )  
 )  
 **STATE OF MISSOURI,** )  
 )  
 **Respondent.** )

WD70231

Cooper County

Before Division Three Judges: Mark D. Pfeiffer, P.J., and Karen King Mitchell and Cynthia L. Martin, JJ.

Orlando D. Hayes appeals the trial court’s order denying his Rule 29.15 motion in which he alleged that he received ineffective assistance of trial counsel and appellate counsel. On appeal, he presents one point in which he claims that the motion court erred in overruling his Rule 29.15 motion because the record at the evidentiary hearing established that his trial counsel was ineffective for failing to file a motion to dismiss the kidnapping charge in Howard County, which was later transferred to Cooper County, on the basis that, pursuant to Rule 23.10, both Howard County and Cooper County lacked jurisdiction over him.

**AFFIRMED.**

**Division Three holds:**

Hayes is correct that, by filing its complaint in Jackson County on June 12, 2004, the State commenced criminal proceedings against Hayes for kidnapping. Thus, if any one of Hayes’s attorneys would have filed a motion to dismiss the kidnapping charge in Howard County or Cooper County on the basis that Jackson County already had priority over the offense, the trial court would have granted the motion. This, however, does not save the day for Hayes because he has not established that any alleged error by trial counsel has prejudiced him.

The court’s violation of Rule 23.10 was merely an error of law, which the court must subject to the normal prejudice analysis. In that regard, the priority rules are designed (1) to prevent confusion and conflicts in jurisdiction and (2) to prevent the State from trying a person twice for the same offense. The record shows that Hayes’s trial counsel’s failure to file a motion to dismiss the kidnapping charge in Howard County and Cooper County did not frustrate either of these two purposes.

**Opinion by: Mark D. Pfeiffer, Judge**

December 15, 2009

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.