

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

BLAKE N. LOGAN,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD74133

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 25, 2012

APPEAL FROM

The Circuit Court of Boone County, Missouri
The Honorable Gary M. Oxenhandler, Judge

JUDGES

Division Three: Howard, P.J., and Mitchell and Martin, JJ.

CONCURRING.

ATTORNEYS

Craig A. Johnston, Assistant Public Defender
Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General
Evan J. Buchheim, Assistant Attorney General
Jefferson City, MO

Attorneys for Respondent.



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

BLAKE N. LOGAN,)
)
) **Appellant,**)
v.) **OPINION FILED:**
) **September 25, 2012**
STATE OF MISSOURI,)
)
) **Respondent.**)

WD74133

Boone County

Before Division Three Judges: Victor C. Howard, Presiding Judge, and Karen King Mitchell and Cynthia L. Martin, Judges

Following an evidentiary hearing on his Rule 24.035 post-conviction motion, Logan raised for the first time on appeal a claim that his post-conviction counsel abandoned him by filing a statement in lieu of an amended motion and, thereby, failed to raise a claim of prosecutorial vindictiveness. Logan also claims that in doing so, post-conviction counsel was ineffective, and that, pursuant to the recent U.S. Supreme Court opinion in *Martinez v. Ryan*, 132 S. Ct. 1309 (2012), he is now entitled to seek relief based upon a claim of ineffective assistance of post-conviction counsel.

AFFIRMED.

Division Three holds:

- (1) Filing a statement in lieu of an amended motion that complies with all the mandates of Rule 24.035(e) does not constitute “abandonment.”
- (2) The holding in *Martinez v. Ryan*, 132 S. Ct. 1309 (2012), does not allow a freestanding claim of ineffective assistance of post-conviction counsel to be raised for the first time on appeal of the denial of a motion for post-conviction relief.

Opinion by: Karen King Mitchell, Judge

September 25, 2012

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