

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**TERRY A. BLAIR,
APPELLANT
vs.**

**STATE OF MISSOURI,
RESPONDENT**

DOCKET NUMBER WD74698

DATE: JUNE 25, 2013

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable James D. Youngs, Judge

Appellate Judges:

Division Three: Joseph M. Ellis, P.J., Lisa White Hardwick and Cynthia L. Martin, JJ.

Attorneys:

Susan L. Hogan, for Appellant

Evan J. Buchheim, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

TERRY A. BLAIR, APPELLANT

v.

STATE OF MISSOURI, RESPONDENT

WD74698

Jackson County, Missouri

Before Division Three Judges: Joseph M. Ellis, P.J., Lisa White Hardwick and Cynthia L. Martin, JJ.

In 2008, Appellant Terry Blair was convicted of murdering six women whose bodies were discovered along the Prospect corridor in Kansas City, Missouri. In 2010, Appellant filed a motion for post-conviction relief alleging several claims of ineffective assistance of trial counsel. In particular, Appellant asserted that his trial counsel was ineffective in that (1) counsel agreed to allow Dr. Thomas Young to testify regarding the three autopsies Dr. Thomas Gill performed instead of calling Dr. Gill as a witness; (2) counsel failed to object when Ruby Williams testified at trial and identified Appellant as the individual she last saw victim Darci Williams alive with; and (3) counsel failed to call Appellant as a witness during the suppression hearing. The motion court held an evidentiary hearing on Appellant's motion and subsequently entered a judgment denying his motion for post-conviction relief. Appellant now appeals from the denial of his Rule 29.15 motion.

AFFIRMED

Division Three holds:

(1) The motion court did not clearly err in denying Appellant's motion for post-conviction relief because his trial counsel was not ineffective for entering into a stipulation with the State that Dr. Young could testify as to the autopsies performed by Dr. Gill. A medical examiner can testify about his or her own conclusions based upon an absent medical examiner's report without violating the Confrontation Clause. Thus, it follows that the mere act of trial counsel stipulating with the State that a medical examiner can testify in lieu of an absent medical examiner likewise does not violate the defendant's right to confront the witnesses against him. Accordingly, the fact that Appellant's trial counsel entered into a stipulation with the State that permitted Dr. Young to testify regarding the autopsies performed by the absent Dr. Gill, in and of itself, did not violate Appellant's right to confront the witnesses against him and, therefore, did not amount to ineffective assistance of trial counsel.

(2) The motion court did not clearly err in denying Appellant's motion for post-conviction relief because Appellant failed to establish that he was prejudiced by his trial counsel's failure to object to Ruby Williams's testimony identifying him as the last person she saw victim Darci Williams alive with prior to Darci's disappearance. The record establishes that Appellant's trial counsel made numerous and repeated attempts to prevent Ruby Williams from testifying and identifying Appellant as the last individual she saw Darci with prior to Darci's disappearance. Although Trial Counsel Dryden made no express objection to Ruby William's in-court identification of Appellant, Appellant offers no explanation as to how trial counsel failing to again renew the objection following the in-court identification prejudiced him. Furthermore, Appellant failed to prove that any objection made by trial counsel to Ruby Williams's in-court identification of Appellant would have been meritorious. Appellant, therefore, failed to prove that his trial counsel was ineffective for failing to object to Ruby Williams's in-court identification.

(3) The motion court did not clearly err in denying Appellant's motion for post-conviction relief because the record establishes that Appellant knew he had a right to testify at the suppression hearing and that he decided not to testify based upon the advice of his trial counsel. Appellant offers no argument as to why trial counsel's advice not to testify at the suppression hearing constituted unreasonable trial strategy. Appellant, therefore, failed to establish that his trial counsel was ineffective for not calling him to testify at the suppression hearing.

Opinion by Joseph M. Ellis, Judge

Date: June 25, 2013

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