

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

LARRY E. JOHNSON,

Appellant

v.

STATE OF MISSOURI.

Respondent

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DOCKET NUMBER WD76872

DATE: November 18, 2014

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Appeal From:

Circuit Court of Buchanan County, MO  
The Honorable Patrick K. Robb, Judge

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Appellate Judges:

Division Four  
Alok Ahuja, C.J. Presiding, James Edward Welsh, and Gary D. Witt, JJ.

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Attorneys:

S. Kate Webber, Kansas City, MO

Counsel for Appellant

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Attorneys:

Karen Kramer, Jefferson City, MO

Counsel for Respondent

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

**LARRY E. JOHNSON, Appellant, v.  
STATE OF MISSOURI, Respondent**

**WD76872**

**Buchanan County**

**Before Division Four Judges: Ahuja, C.J., Welsh, and Witt, JJ.**

Larry E. Johnson appeals the circuit court's judgment denying his Rule 24.035 motion for post-conviction relief after an evidentiary hearing. Johnson pleaded guilty to the class B felony of driving while intoxicated. In this appeal, Johnson contends that his plea counsel was ineffective for failing to inform him that he would be subject to a 40 percent mandatory minimum prison term before becoming eligible for parole. Johnson claims that, but for counsel's failure to advise him of the 40 percent mandatory minimum, he would not have pleaded guilty but would have insisted on his constitutional right to a trial.

**Affirmed.**

**Division Four holds:**

Parole eligibility is considered to be a collateral consequence of a plea, about which counsel has no obligation to inform the defendant. Johnson's counsel, therefore, was not ineffective for failing to advise Johnson that he would be subject to a 40 percent mandatory minimum prison term before becoming eligible for parole and the failure to do so did not render Johnson's guilty plea unknowing or involuntary.

**Concurring opinion:**

Judge Ahuja concurs in the court's opinion. In his view, until the Supreme Court of the United States or the Missouri Supreme Court directly overrules *Reynolds v. State*, 994 S.W.2d 944, 946-47 (Mo. banc 1999), this Court is bound to reject Johnson's claim that his counsel was ineffective for failing to inform him of the minimum prison term he would be required to serve before being eligible for parole."

Opinion by Welsh, Judge. Witt, Judge, concurs.  
Separate concurring opinion by Ahuja, Chief Judge Presiding.

November 18, 2014  
November 18, 2014

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