



Missouri Court of Appeals
Southern District
Division Two

LARRY WAYNE STARK, JR.,)	
)	
Movant-Appellant,)	
)	
vs.)	No. SD29178
)	
STATE OF MISSOURI,)	Opinion filed:
)	February 27, 2009
Respondent-Respondent.)	

APPEAL FROM THE CIRCUIT COURT OF GREENE COUNTY

Honorable Calvin R. Holden, Circuit Judge

REVERSED AND REMANDED

Larry W. Stark, Jr. ("Movant") appeals from the denial of his motion for post-conviction relief under Rule 24.035.¹ He urges this Court to reverse and remand because the trial court failed to issue findings of fact and conclusions of law as required by Rule 24.035(j).

In an appeal from the denial of a motion for post-conviction relief, this Court’s review is “limited to a determination of whether the findings and conclusions of the trial court are clearly erroneous.” Rule 24.035(k). “Findings and conclusions are clearly erroneous only if, after a review of the entire record, the appellate court is left with the definite and firm impression that a mistake has been made.” *Woods v. State*, 994 S.W.2d 32, 36 (Mo. App. W.D. 1999).

Rule 24.035(j) provides that “[t]he [trial] court shall issue findings of fact and conclusions of law on all issues presented, whether or not a hearing is held.” There is no precise formula to which

¹ Unless otherwise indicated, all references to rules are to Missouri Court Rules (2008).

findings and conclusions must conform, but they must be sufficient to permit meaningful appellate review. *Mitchell v. State*, 192 S.W.3d 507, 510 (Mo. App. E.D. 2006); *Pickard v. State*, 82 S.W.3d 230, 231-32 (Mo. App. S.D. 2002).

Here, the trial court denied Movant's motion for post-conviction relief without issuing any findings of fact or conclusions of law. "A denial of a Rule 24.035 motion that is supported neither by factual findings nor legal explanation gives the appellate court nothing to review." *Holloway v. State*, 764 S.W.2d 163, 165 (Mo. App. W.D. 1989). "Failure to issue findings and conclusions as contemplated by Rule 24.035[] mandates reversal and remand." *Brown v. State*, 810 S.W.2d 716, 718 (Mo. App. W.D. 1991). See *Mitchell*, 192 S.W.3d at 510.

The State concedes that the trial court failed to issue any findings of fact and conclusions of law in this case and agrees that the case must be remanded to the trial court for that reason.² The order denying Movant's motion for post-conviction relief is reversed, and the cause is remanded to the trial court for further proceedings consistent with this opinion and Rule 24.035(j).

Don E. Burrell, Presiding Judge

Lynch, C.J. - Concur
Parrish, J. - Concur
Rahmeyer, J. - Concur

Rosalyn Koch, of Columbia, MO for Appellant

Mary Highland Moore, of Jefferson City, MO for Respondent

Division II

² The State also concedes that none of the recognized exceptions to the general requirement that findings of fact and conclusions of law must be issued applies in this case. See, e.g., *Mitchell*, 192 S.W.3d at 509-10.