

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

KENNETH G. MIDDLETON,

Movant

v.

STATE OF MISSOURI,

Respondent,

)
)
)
)
)
)
)
)
)
)

Case No. CV91-23437

Division 12

FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 26th day of May, 2005, the Court takes up and considers Movant's Motion to Reopen Previously Filed Rule 29.15 Motion, filed on July 16, 2003 and Movant's Motion for Post-conviction relief, also filed on July 16, 2003, and issues the following Findings of Fact and Conclusions of Law as to both motions:

FINDINGS OF FACT – JURISDICTION

A hearing was held on December 18, 2003 solely to address the issue of this Court's jurisdiction to re-open Mr. Middleton's 1991 "29.15" proceeding. The following facts precede the Court's Conclusions of Law:

1. Movant Kenneth Middleton is currently incarcerated at Crossroads Correctional Center in Cameron, Missouri, following his convictions in case number CR90-0348 for Murder in the First Degree, in violation of RSMo. 565.020, and Armed Criminal Action, in violation of RSMo. 571.015. He was sentenced on April 5, 1991 to terms of confinement in the Missouri DOC for concurrent periods of life without parole and 200 years. (Court file.)

2. The precise date Mr. Middleton was delivered to the Department of Corrections is unknown. However, that date is jurisdictionally irrelevant because Movant timely filed a *pro se* motion for post-

As set forth above in the Court's holdings with respect to re-opening the Rule 29.15 proceeding, the claims abandoned by Mr. Middleton's trial and post-conviction counsel, Robert G. Duncan, have now been stated by Mr. Middleton's current counsel and considered by the Court. This point is denied as moot.

CONCLUSION

WHEREFORE, in light of the above and foregoing, this Court finds Mr. Middleton was abandoned by post-conviction counsel, thus providing just cause to re-open his Rule 29.15 proceeding. Further, in light of the evidence and law presented at hearing and in the briefs submitted by counsel, the Court finds that Movant was denied effective assistance of counsel and orders Mr. Middleton's convictions and sentences vacated and set aside, and grants Mr. Middleton a new trial.!

IT IS SO ORDERED.

5/26/05
Date

Edith L. Messina
Honorable Edith L. Messina
Division 12

CERTIFIED COPY
I certify that the foregoing document is a full, true and complete copy of the original on file in my office and of which I am legal custodian.
Teresa L. Steelman
Court Administrator
Circuit Court of Jackson County, Missouri
7/7/05 By mw
Deputy

CERTIFIED COPY
I certify that the foregoing document is a full, true and complete copy of the original on file in my office and of which I am legal custodian.
Teresa L. Steelman
Court Administrator
Circuit Court of Jackson County, Missouri
7/7/05 By [Signature]
Deputy