

IN THE CIRCUIT COURT OF DEKALB COUNTY, MISSOURI

STATE OF MISSOURI,

Plaintiff,

v.

Defendant.

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Case No.

**NOTICE OF RIGHT TO PROCEED UNDER
SUPREME COURT RULE 24.035/29.15**

Pursuant to Missouri Supreme Court Rule 29.07(b)(4) you are advised of your right to proceed under Supreme Court Rule 24.035/29.15. This rule provides the defendant with the right to file a motion to this Court to vacate, set aside or correct the judgment of conviction or sentence, if the defendant claims:

1. The conviction or the sentence imposed violates the Constitution and the laws of this State or the Constitution of the United States; or
2. This Court is without jurisdiction to impose the sentence; or
3. The sentence imposed is in excess of the maximum sentence authorized by law.

This rule provides the exclusive procedure by which the defendant may seek relief in this Court for these claims, which include claims of ineffective assistance of counsel.

The form to be used is Criminal Procedure Form No. 40, which will be made available to the defendant upon request. No cost deposit is required.

The motion must be filed: (1) Within ninety (90) days after the mandate of the Appellate Court is issued if an appeal of the judgment sought to be vacated is filed; (2) Within 180 days after the defendant is delivered to the custody of the Department of Corrections if no appeal of the judgment is sought to be vacated is taken.

If the defendant files such a motion, the defendant shall include every ground known to the defendant for vacating, setting aside or correcting the judgment or sentence.

If the defendant is indigent and files the defendant's own motion, an attorney will then be appointed for the defendant. The defendant's attorney may then file an amended motion, and the prosecutor may file a response. If an amended motion is not filed, counsel must file a statement stating the reasons an amended motion is unnecessary. The statement must be presented to the defendant prior to filing, and the defendant may file a reply to the statement not later than ten days after the statement is filed.

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I have read this notice and understand my rights under Rule 24.035/29.15. I acknowledge receipt of a copy of this notice.

DATE: _____

DEFENDANT

I have explained Rule 24.035/29.15 to the defendant.

DATE: _____

ATTORNEY FOR DEFENDANT