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MISSOURI  
RULES OF COURT

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STATE AND FEDERAL

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1992

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(e) **Pro Se Motion—Appointment of Counsel—Amended Motion, Required When—Withdrawal of Appointed Counsel.** When an indigent movant files a pro se motion, the court shall cause counsel to be appointed for the movant. Counsel shall ascertain whether sufficient facts supporting the grounds are asserted in the motion and whether the movant has included all grounds known to him as a basis for attacking the judgment and sentence. If the motion does not assert sufficient facts or include all grounds known to the movant, counsel shall file an amended motion that sufficiently alleges the additional facts and grounds. For good cause shown, appointed counsel may be permitted to withdraw. If appointed counsel is permitted to withdraw, the court shall cause new counsel to be appointed.

(f) **Amended Motion—Form, Time for Filing—Response by Prosecutor.** Any amended motion shall be verified by movant and shall be filed within thirty days of the date counsel is appointed or the entry of appearance by counsel that is not appointed. The court may extend the time for filing the amended motion for one additional period not to exceed thirty days. Any response to the motion by the prosecutor shall be filed within ten days after the date an amended motion is required to be filed.

(g) **Request for Hearing, Time for Filing—Hearing, Not Required, When—Time Hearing to be Held.** A request for a hearing shall be made by motion on or before the date an amended motion is required to be filed. Within fifteen days after the date an amended motion is required to be filed, the court shall determine whether to grant a hearing. If no request for hearing is timely filed or if the court shall determine the motion and the files and records of the case conclusively show that the movant is entitled to no relief, a hearing shall not be held. If a hearing is ordered, it shall be held within sixty days of the date of the order granting a hearing.

(h) **Presence of Movant—Record of Hearing—Continuance of Hearing—Burden of Proof.** At any hearing ordered by the court the movant need not be present. The court may order that testimony of the movant shall be received by deposition. The hearing shall be on the record. The court may continue the hearing upon a showing of good cause. The movant has the burden of proving his grounds for relief by a preponderance of the evidence.

(i) **Findings and Conclusions, Issued, When—Judgment.** The court shall issue findings of fact and conclusions of law on all issues presented, whether or not a hearing is held, within thirty days of the submission of the case. If the court finds that the judgment was rendered without jurisdiction, that the sentence imposed was illegal, or that there was a denial or infringement of the rights

given movant by the constitution of Missouri or the constitution of the United States as to render the judgment subject to collateral attack, the court shall vacate and set aside the judgment and shall discharge the movant or resentence him or order a new trial or correct the judgment and sentence as appropriate.

(j) **Appeal—Standard of Appellate Review.** An order sustaining or overruling a motion filed under the provisions of this Rule shall be deemed a final judgment for purposes of appeal by the movant or the state. If the court finds that a movant allowed an appeal is an indigent person, it shall authorize an appeal in forma pauperis and furnish without cost a record of all proceedings for appellate review. When the appeal is taken, the circuit court shall order the official court reporter to promptly prepare the transcript necessary for appellate review without requiring a letter from the movant's counsel ordering same. If the sentencing court finds against the movant on the issue of indigency and the movant so requests, the court shall certify and transmit to the appellate court a transcript and legal file of the evidence solely on the issue of indigency so as to permit review of that issue by the appellate court. Appellate review of the trial court's action on the motion filed under this Rule 29.15 shall be limited to a determination of whether the findings and conclusions of the trial court are clearly erroneous.

(k) **Successive Motions.** The circuit court shall not entertain successive motions.

(l) **Effect of Motion on Pending Appeal—Consolidation of Appeals.** If a motion is filed under this Rule 29.15 and an appeal is pending from the judgment of conviction that is the subject of the motion, the appeal shall be suspended until final determination of the issues raised by the motion. Appellant shall give notice to the court where the appeal is pending of the entry of judgment on the motion filed under this Rule 29.15 within ten days of the entry of the judgment. If an appeal is filed from the judgment sustaining or overruling a motion filed under the provisions of this Rule 29.15, the appeal from the judgment of conviction shall be consolidated with the appeal from the judgment on the motion. The record on appeal shall consist of the transcript and legal file from both the judgment of conviction and the judgment on the motion. If a claim of ineffective assistance of counsel was presented in the motion, the attorney representing movant on the motion filed pursuant to this Rule 29.15 shall be the attorney on appeal for the consolidated case.

(m) **Schedule.** This Rule 29.15 shall apply to all proceedings wherein sentence is pronounced on or after January 1, 1988. If sentence is pronounced prior to January 1, 1988, and no prior motion has