

Case takes another twist

The overturning last year of a man's conviction for killing his wife gets overturned.

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Last year, a Jackson County judge overturned Kenneth Middleton's murder conviction because of an ineffective trial attorney. The state appealed.

On Tuesday, a three-judge panel of the Missouri Court of Appeals in Kansas City overturned the judge on procedural grounds.

Middleton, 62, remains in prison serving life without parole and 200 years for the Blue Springs shooting death of his wife Feb. 12, 1990.

The appeals judges said Judge Edith Messina erred in her ruling, which came after hearings on key defense evidence never raised at trial.

Her ruling questioned whether Middleton would have been convicted if jurors had heard such evidence. But her finding 14 years after a conviction was unusual.

Ineffective-attorney appeals are usually handled quickly, rarely prevail and cannot be repeated except under extraordinary circumstances. In Middleton's case, Messina found

that the extraordinary circumstance was that a lawyer who handled his ineffective-attorney appeal performed so poorly that he, in effect, had abandoned his client.



Middleton

But the appeals court disagreed, noting that Middleton signed a statement saying he had read the appeal and approved it. Middleton

said he signed it without reading the appeal because his attorney gave it to him to sign just before the appeal was due. Not to sign it meant no appeal at all, Middleton contended.

The appeals court denied that appeal years ago.

"I'm heartbroken," Middleton's son, Cliff Middleton of Shawnee, said of the Tuesday ruling. He said he would appeal.

The ruling is the latest development in an unusual case. It began with a hysterical Kenneth Middleton calling police to his home, where they found Katherine Middleton, 45, shot dead on the floor.

Middleton gave police two different stories about how that

happened to his wife of 16 years, and was sent to a mental hospital overnight.

His trial took just two days. The defense attorney made no opening statement, called no witnesses or experts, and did not have Middleton testify.

New evidence that Messina heard showed that a gunshot residue test was missing on the left hand of the victim and a police form ordering it was altered.

The original crime scene photos did not turn out, and police went back later and put the scene together wrong and shot photos for trial, according to the evidence.

A defense expert said the handgun was fired from about 12 inches away and gunpowder residue and blood should have been on Middleton's shirt, but none was. Two firearms experts testified that the handgun had the lightest trigger pull they had ever seen.

Working against Middleton, prosecutors noted later, was the fact that two persons were in the house, one was shot to death, and Middleton did not provide a plausible explanation.

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