

10-444 MISSOURI V. FRYE

DECISION BELOW: 311 S.W.3d 350

LOWER COURT CASE NUMBER: WD70504

QUESTION PRESENTED:

Contrary to the holding in *Hill v. Lockhart*, 474 U.S. 52 (1985) - which held that a defendant must allege that, but for counsel's error, the defendant would have gone to trial - can a defendant who validly pleads guilty successfully assert a claim of ineffective assistance of counsel by alleging instead that, but for counsel's error in failing to communicate a plea offer, he would have pleaded guilty with more favorable terms?

IN ADDITION TO THE QUESTIONS PRESENTED BY THE PETITIONS THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION:

"WHAT REMEDY, IF ANY, SHOULD BE PROVIDED FOR INEFFECTIVE ASSISTANCE OF COUNSEL DURING PLEA BARGAIN NEGOTIATIONS IF THE DEFENDANT WAS LATER CONVICTED AND SENTENCED PURSUANT TO CONSTITUTIONALLY ADEQUATE PROCEDURES?"

CERT. GRANTED 1/7/2011