

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

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|--------------------|---|----------------------------------|
| MICHAEL A. MAHONE, |) | No. ED102976 |
| |) | |
| Appellant, |) | Appeal from the Circuit Court of |
| |) | St. Louis County |
| vs. |) | |
| |) | |
| STATE OF MISSOURI, |) | Honorable Carolyn C. Whittington |
| |) | |
| Respondent. |) | Filed: May 17, 2016 |

Michael A. Mahone (“Movant”) appeals from the motion court’s denial of his Rule 24.035 post-conviction relief (“Rule 24.035 motion”) after an evidentiary hearing. Movant pled guilty to one count of the class C felony of forgery, in violation of Section 570.090, RSMo (2000). In his Rule 24.035 motion, Movant claims his plea counsel was ineffective for failing to advise him that the court could grant credit for time served on probation, but only when that probation was revoked. Movant further claims his plea counsel was ineffective for failing to advise him that he would be required to serve a minimum of eighty percent of his sentence before becoming eligible for parole.

REVERSED AND REMANDED.

DIVISION TWO HOLDS: Movant’s amended Rule 24.035 motion was filed untimely. Because the motion court did not conduct an independent inquiry into whether Movant was abandoned by post-conviction counsel as a result of the untimely filing, we are compelled by the Supreme Court’s holding in *Moore v. State*, 458 S.W.3d 822 (Mo. banc 2015), to reverse the motion court’s judgment and remand the case for the motion court to determine whether Movant was abandoned by post-conviction counsel.

Opinion by: Angela T. Quigless, J.

Philip M. Hess, P.J. and Gary M. Gaertner, Jr., J., Concur.

Attorneys for Appellant: Lisa M. Stroup

Attorneys for Respondent: Shaun J. Mackelprang

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