

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

COREY J. STATES,)	No. ED99329
)	
Appellant,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable Ellen Levy Siwak
STATE OF MISSOURI,)	
)	
Respondent.)	FILED: November 19, 2013

Corey States (“Movant”) appeals from the judgment of the motion court denying his Rule 24.035 motion for post-conviction relief without an evidentiary hearing. Pursuant to a plea agreement with the State of Missouri (“State”), Movant pleaded guilty to two counts of second degree assault of a law enforcement officer and one count of resisting arrest. On appeal, Movant argues that the motion court clearly erred in denying his motion for post-conviction relief without an evidentiary hearing because his factual allegations of ineffective assistance of counsel were not refuted by the record. Specifically, Movant asserts that his plea counsel was ineffective for assuring him that he would receive credit on his sentence for the 346 days of jail time served while awaiting the disposition of his case, when in fact Movant received no credit for his time in jail awaiting disposition.

REVERSED AND REMANDED.

Division III Holds: Movant has pleaded facts not refuted by the record which, if proven true, would merit relief on his claim of ineffective assistance of plea counsel. Accordingly, Movant was entitled to receive an evidentiary hearing on his motion for post-conviction relief. We reverse the judgment of the motion court and remand for an evidentiary hearing on Movant’s claim of ineffective assistance of his plea counsel.

Opinion by: Kurt S. Odenwald, J., Mary K. Hoff, P.J., and Angela T. Quigless, J., Concur.

Attorney for Appellants: Maleaner R. Harvey

Attorney for Respondent: Chris Koster and Karen L. Kramer

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.