

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

ROY E. SAMUEL, APPELLANT,

v.

STATE OF MISSOURI, RESPONDENT.

DOCKET NUMBER WD69273

DATE: February 27, 2009

Appeal From:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE THOMAS C. CLARK HONORABLE, JUDGE

Appellate Judges:
Division Two: Lisa W. Hardwick, P.J., Victor C. Howard and Joseph P. Dandurand, JJ.

Attorneys:
Jay T. Grodsky, Esq., Leawood, KS, **for appellant.**

Chris Koster, Esq. and Mary H. Moore, Esq., Jefferson City, MO., **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS – WESTERN DISTRICT

ROY E. SAMUEL,

APPELLANT,

V.

STATE OF MISSOURI,

RESPONDENT.

WD69273

Jackson County

Before Division Two Judges: Lisa Hardwick, P.J., Victor Howard and Joseph Dandurand, JJ.

Samuel pled guilty to burglary and stealing and elected to allow the court to set his sentence. The court considered Samuel's extensive criminal record and other factors and imposed a sentence of twelve years. Samuel moved for post-conviction relief on the basis of ineffective assistance of counsel, alleging that his attorney had promised him that he would receive a five year sentence if he would agree to allow the court to impose sentence. The court denied the motion, without the benefit of a hearing, finding that the record reflected that no such promise had been made. Samuel appeals.

REMANDED.

Division Two holds:

Where the plea colloquy is completely devoid of any questioning of the defendant regarding any threats or promises made to him in order to convince him to enter a guilty plea, a Rule 24.035 hearing is required before the court can make a finding on that issue.

Opinion by: Joseph P. Dandurand, Judge

February 27, 2009

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