OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

LAWRENCE M. PHILLIPS,	)	No. ED109546
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	St. Louis County
vs.	)	
	)	Honorable John D. Warner, Jr.
STATE OF MISSOURI,	)	
	)	
Respondent.	)	Filed: November 16, 2021

Lawrence Phillips ("Movant") appeals the motion court's denial of his Rule 24.035 motion without an evidentiary hearing following his guilty plea and sentence of nine years in the Missouri Department of Corrections ("DOC") for second-degree robbery. Movant raises one Point on appeal. Movant alleges the motion court clearly erred denying him an evidentiary hearing, finding the record refuted Movant's claim his plea counsel was ineffective for misadvising him about how much of his sentence he would have to serve before becoming eligible for parole.

REVERSED.

DIVISION III HOLDS:
Point I is granted. "Where counsel misinforms the client as to the effects of the client's plea, the counsel has rendered ineffective representation" and the client "is entitled to an evidentiary hearing." *Webb v. State*, 334 S.W.3d 126, 127 (Mo. banc 2011). "Allegations that the defendant's attorney misinformed him as to parole eligibility are not conclusively refuted by the record where no mention is made of parole eligibility." *Id*. at 129-30. An attorney's advice is not the same as a promise and "a defendant can say correctly that he was promised nothing, but this does not mean he was given correct advice as to the effects of his plea." *Id*. at 130. Movant's claims were not refuted by the record, and he is therefore entitled to an evidentiary hearing regarding the voluntariness of his plea.

Opinion by: Philip M. Hess, Presiding Judge
Angela T. Quigless, Judge and Colleen Dolan, Judge concur.

Attorney for Appellant: Joel J. Schwartz and Nathan T. Swanson

Attorney for Respondent: Michel A. Trapasso

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