

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**IN THE MATTER OF THE CARE AND TREATMENT OF JOHN W MORGAN,
APPELLANT,**

v.

STATE OF MISSOURI, RESPONDENT.

WD68634

January 6, 2009

Appeal From:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE KATHLEEN A. FORSYTH, JUDGE

Appellate Judges:
Division Two: James M. Smart, Jr., P.J., Lisa White Hardwick and James E. Welsh, JJ

Attorneys:
Emmett D. Queener, Columbia, MO, **for appellant.**

Alana M. Barragan-Scott, Columbia, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY

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JACKSON COUNTY CIRCUIT COURT

Before Division Two Judges: James M. Smart, Jr., P.J., Lisa White Hardwick and James E. Welsh, JJ

John Morgan pleaded guilty to several sexual offenses involving minors and was sentenced to a term of imprisonment. Shortly before he was scheduled to be released from prison, the State filed a petition to commit him to the custody of the Department of Mental Health for secure confinement as a sexually violent predator. During the hearing, Morgan objected to two jury instructions and offered alternative instructions. His objections were overruled, and the State's offered instructions were submitted to the jury. The jury returned a verdict finding Morgan to be a sexually violent predator, and he was committed to the custody of the Department of Mental Health for control, care, and treatment. Morgan appeals.

AFFIRMED

Division Two holds:

(1) It was not error to refuse to submit an instruction defining "clear and convincing" because the term is not defined in the approved jury instructions, it is commonly used, and it does not have a technical meaning.

(2) It was not error to refuse to submit an instruction stating that a sexually violent predator will be committed for the rest of his natural life because the instruction actually submitted has been approved by the courts and is consistent with the statutory language, and because the offered instruction has the tendency to mislead because it suggests resulting lifelong physical custody.

Opinion by James M. Smart, Jr., Judge

January 6, 2009

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