

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

JAMES R. CLEVINGER,

APPELLANT.

DOCKET NUMBER WD68933

DATE: APRIL 14, 2009

Appeal From:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE LEE E. WELLS, JUDGE

Appellate Judges:
DIVISION ONE: LISA WHITE HARDWICK, Presiding Judge, THOMAS H.
NEWTON, Chief Judge and JAMES E. WELSH, Judge.

Attorneys:
Frederick J. Ernst, Esq., Kansas City, MO, **for appellant.**
Shaun J. Mackelprang, Esq., and Jamie Pamela Rasmussen, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

STATE OF MISSOURI,

RESPONDENT,

v.

JAMES R. CLEVINGER,

APPELLANT.

WD68933

Jackson County

Before Division One Judges: LISA WHITE HARDWICK, Presiding Judge, THOMAS H. NEWTON, Chief Judge and JAMES E. WELSH, Judge

James Clevenger appeals his convictions for second-degree domestic assault and violation of an order of protection. He contends the circuit court prejudicially erred in allowing a Petition for Order of Protection to be published to the jury because the petition contained hearsay allegations about prior assaults.

REVERSED AND REMANDED.

DIVISION ONE HOLDS: The circuit court erred in overruling Clevenger's objection and publishing Exhibit 3 to the jury. The exhibit contained hearsay allegations of prior bad conduct that prejudiced the jury's consideration of the charged offenses and violated Clevenger's right to a fair trial. The judgment is reversed, and the cause is remanded for a new trial.

Opinion by: Lisa White Hardwick, Judge

April 14, 2009

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