

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**IN THE INTEREST OF: C.M., JR., APPELLANT,
v.
JUVENILE OFFICER, RESPONDENT.**

DOCKET NUMBER WD69467

DATE: January 13, 2009

Appeal From:

Buchanan County Circuit Court
The Honorable Patrick K. Robb, Judge

Appellate Judges:

Division One: Ronald R. Holliger, Presiding Judge, Joseph M. Ellis and Lisa White Hardwick,
Judges

Attorneys:

Nancy A. McKerrow, Columbia, MO, for appellant.
Linda Marie Meyers, St. Joseph, MO, for respondent.

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

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Before Division One Judges: Ronald R. Holliger, Presiding Judge, Joseph M. Ellis and Lisa White Hardwick, Judges

C.M., a minor male, was taken under the jurisdiction of the juvenile court and placed on probation for committing acts which would constitute a class B misdemeanor of sexual conduct in the second degree if committed by an adult. C.M. exposed to a girl at his school. At the juvenile proceeding, the victim, C.M., and another minor witness testified. The juvenile court sustained objections to questions regarding the victim's past sexual statements, and specific instances of the victim's past untruthfulness. No offer of proof was made regarding any of the excluded evidence. After the close of evidence, the juvenile court found that C.M. had exposed himself to the victim, and he was placed on probation. C.M. appeals the judgment of the court, arguing that the juvenile court incorrectly excluded testimony.

AFFIRMED.

Division One holds: C.M. failed to make an offer of proof regarding the excluded evidence. Without an offer of proof, the appellate court will not consider whether excluded evidence should have been included unless three elements are met. C.M. fails to meet the first element: that the parties and the court have a complete understanding, based on the record, of the excluded testimony. The relevance of the victim's past sexual discussions (about an alleged past pregnancy and her alleged bisexuality) is not obvious from the questions asked. These do not show in and of themselves that the victim would not be offended by C.M. exposing himself to her, an element of the offense C.M. was charged with. The questions regarding specific past acts of lying are never admissible absent an offer of proof showing bias or relevance. Thus, lacking any offer of proof for the excluded evidence, the judgment of the juvenile court is affirmed.

Opinion by: Ronald R. Holliger, Presiding Judge

Date: January 13, 2009

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