

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DAVE MCNEILL,  
APPELLANT  
vs.**

**CITY OF KANSAS CITY, MISSOURI,  
RESPONDENT**

---

DOCKET NUMBER WD74364

DATE: August 7, 2012

---

Appeal from:

The Circuit Court of Jackson County, Missouri  
The Honorable Edith L. Messina, Judge

---

Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Alok Ahuja and Mark D. Pfeiffer, JJ.

---

Attorneys:

Michael P. Healy, for Appellant

Jesse Sendejas, for Respondent

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DAVE MCNEILL, APPELLANT**

**v.**

**CITY OF KANSAS CITY, MISSOURI, RESPONDENT**

WD74364

Jackson County, Missouri

Before Division Two Judges: Joseph M. Ellis, P.J., Alok Ahuja and Mark D. Pfeiffer, JJ.

David McNeill appeals from an order issued by the Circuit Court of Jackson County granting a new trial in an action McNeill filed against the City of Kansas City for the wrongful demolition of a building he owned. The cause of action had been submitted to the jury with the following instruction: “Your verdict must be for plaintiff if you believe: First, defendant wrongfully demolished the building owned by plaintiff which was mentioned in the evidence, and Second, as a direct result plaintiff was damaged.” The trial court found that the jury instruction, given to the jury over the city’s objection, was too general and contained a roving commission.

**AFFIRMED.**

**Division Two holds:**

- (1) The verdict directing instruction submitted to the jury in this case could not be more general and fails to identify what acts or omissions on the part of the City might be considered to have rendered the demolition of the building wrongful. Accordingly, the trial court properly concluded that the instruction afforded the jury a roving commission.
- (2) “Wrongfully” is not a term of art, and a definition of that term is not required in the jury instructions for an action brought for wrongful demolition under § 67.450. But the instruction must indicate the way or ways in which the demolition was wrongful.
- (3) An instruction is considered prejudicial where, as here, it submits a legal question in an abstract way giving the jury a roving commission to return a verdict without being limited to any issues of fact or law developed in the case.

**Opinion by: Joseph M. Ellis, Judge**

Date: August 7, 2012

**This summary is *UNOFFICIAL* and should not be quoted or cited.**