

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**IN THE MATTER OF CARL LEE DEBRODIE, an Incapacitated and Disabled Adult,  
Respondent; KAREN DIGH ALLEN, CALLAWAY COUNTY PUBLIC  
ADMINISTRATOR/GUARDIAN and CONSERVATOR for CARL LEE DEBRODIE,  
Respondent,**

**v.**

**BRYAN KEITH MARTIN and MARY ELIZABETH MARTIN,  
Appellants.**

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**DOCKET NUMBER WD75853**

**Date: June 18, 2013**

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Appeal from:  
Cole County Circuit Court  
The Honorable Jon E. Beetem, Judge

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Appellate Judges:  
Division Three: Joseph M. Ellis, Presiding Judge, Lisa White Hardwick and Cynthia L.  
Martin, Judges

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Attorneys:  
Daniel R. Dunham, Columbia, MO, for appellant.  
Mary W. Beck and Elizabeth K. Magee, Columbia, MO, for respondent.

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

**IN THE MATTER OF CARL LEE DEBRODIE, an Incapacitated and Disabled Adult, Respondent; KAREN DIGH ALLEN, CALLAWAY COUNTY PUBLIC ADMINISTRATOR/GUARDIAN and CONSERVATOR for CARL LEE DEBRODIE**

**Respondent,**

**v.**

**BRYAN KEITH MARTIN and MARY ELIZABETH MARTIN,**

**Appellants.**

WD75853

Cole County

Before Division Three: Joseph M. Ellis, Presiding Judge, Lisa White Hardwick and Cynthia L. Martin, Judges

Bryan Keith Martin and Mary Elizabeth Martin ("the Martins") appeal the judgment denying their petition to adopt Carl Lee DeBrodie, an incapacitated and disabled adult. The Martins contend the circuit court erred in finding that, because DeBrodie was not capable of consenting to the adoption and his legal guardian refused to provide her consent, the court could not consider the fitness and propriety of the proposed adult adoption.

**REVERSED AND REMANDED.**

Division Three holds:

The plain language of the adoption consent statute, Section 453.030.2, RSMo Cum. Supp. 2012, does not settle the dispute as to whether DeBrodie's consent or his legal guardian's consent was required before DeBrodie could be adopted. The statute's plain language appears to require the consent of all adults before they can be adopted,

which essentially disqualifies from adoption mentally incapacitated adults like DeBrodie who are incapable of consenting, and makes no provision for substituting a legal guardian's consent in place of a mentally incapacitated adult adoptee's consent. Section 453.030.2 is, therefore, ambiguous regarding the consent requirement for mentally incapacitated adult adoptees, and we must construe the statute to resolve the ambiguity.

Considering the adoption code as a whole, its history, and its purpose, we construe Section 453.030.2 as excepting from the consent requirement *all* mentally incapacitated persons age fourteen and older whom the court has found to be unable to give consent. Therefore, the circuit court erred in finding that either DeBrodie's consent or his legal guardian's consent was required before it could consider the fitness and propriety of the Martins' proposed adoption.

Opinion by: Lisa White Hardwick, Judge

**June 18, 2013**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**