

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

IN THE MATTER OF THE CARE AND TREATMENT OF LESTER BRADLEY a/k/a  
LESTER B. BRADLEY, a/k/a LESTER BERNARD BRADLEY,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

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**DOCKET NUMBER WD76441**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** June 17, 2014

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**APPEAL FROM**

The Circuit Court of Jackson County, Missouri  
The Honorable Kathleen A. Forsyth, Judge

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**JUDGES**

Division One: Ellis, P.J., and Mitchell and Gabbert, JJ.

CONCURRING.

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**ATTORNEYS**

Erika R. Eliason, Assistant Public Defender  
Columbia, MO

Attorney for Appellant,

Chris Koster, Attorney General  
Mary H. Moore, Assistant Attorney General  
Jefferson City, MO

Attorneys for Respondent.

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

IN THE MATTER OF THE CARE AND )  
TREATMENT OF LESTER BRADLEY )  
a/k/a LESTER B. BRADLEY, a/k/a )  
LESTER BERNARD BRADLEY, )  
 )  
Appellant, ) **OPINION FILED:**  
v. ) **June 17, 2014**  
 )  
STATE OF MISSOURI, )  
 )  
Respondent. )

WD76441

Jackson County

**Before Division One Judges:** Joseph M. Ellis, Presiding Judge, and Karen King Mitchell and Anthony Rex Gabbert, Judges

Lester Bradley appeals the probate court's judgment, following a jury trial, finding him to be a sexually violent predator (SVP) and committing him to the custody of the Department of Mental Health for control, care, and treatment. Bradley raises three claims on appeal: first, he argues that the evidence was insufficient to clearly and convincingly establish that he was more likely than not to reoffend sexually if not confined; second, he claims that the probate court erred in denying his motion to dismiss for failure to hold a probable cause hearing within the statutorily required 72-hour period following his detention on the State's petition; and third, he claims that the probate court abused its discretion in excluding evidence regarding the multidisciplinary team's (MDT) assessment. Because the court erred in determining that the assessment was inadmissible pursuant to section 632.483.5, we reverse the probate court's judgment and remand for further proceedings.

**REVERSED AND REMANDED.**

**Division One holds:**

1. The statutory requirement that a probable cause hearing be held within 72 hours of an alleged SVP being taken into custody is not jurisdictional and can be waived.

2. Waiver of the 72-hour time period for the probable cause hearing can be accomplished by counsel and does not require a personal waiver from the client.
3. Here, Bradley waived the 72-hour time period for his probable cause hearing by consenting to a hearing outside of the statutory time limit; thus, the court did not err in overruling his motion to dismiss on this basis.
4. Section 632.483.5 does not preclude evidence of the MDT's assessment. Because the court excluded evidence of the MDT's assessment under an improper legal analysis, we reverse and remand for further proceedings.

**Opinion by: Karen King Mitchell, Judge**

June 17, 2014

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