

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,  
APPELLANT  
vs.**

**JAMES ARTHUR CLAMPITT,  
RESPONDENT**

---

DOCKET NUMBER WD73943

DATE: JANUARY 24, 2011

---

Appeal from:

The Circuit Court of Chariton County, Missouri  
The Honorable Gary E. Ravens, Judge

---

Appellate Judges:

Division Four: Lisa White Hardwick, C.J., Joseph M. Ellis, J. and James Williams, Sp. J.

---

Attorneys:

Shaun J. Mackelprang, for Appellant

Ryan Bertels, for Respondent

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, APPELLANT**

**v.**

**JAMES ARTHUR CLAMPITT, RESPONDENT**

WD73943

Chariton County, Missouri

Before Division Four Judges: Lisa White Hardwick, C.J., Joseph M. Ellis, Judge and James Williams, Special Judge

The State appeals from a judgment entered by the Circuit Court of Chariton County granting James Clampitt's motion to suppress the text messaging content and detail for incoming and outgoing text messages from his cell phone that the State obtained from U.S. Cellular by use of four investigative subpoenas. The State subpoenaed the information following an automobile accident for which the State ultimately charged Clampitt with first-degree involuntary manslaughter and leaving the scene of a motor vehicle accident. The trial court found that Clampitt had a reasonable expectation of privacy in the text messaging information obtained by the State, the investigative subpoenas used to obtain Clampitt's text messages were unreasonable, and that the good faith exception to the exclusionary rule did not apply to prosecutors.

**AFFIRMED**

**Division Four holds:**

- (1) The trial court correctly held Clampitt had a reasonable expectation of privacy in the contents of his text messages because, just as society maintains a reasonable expectation of privacy in the content of its letters and telephone calls, cell phone subscribers assume that the contents of their text messages will remain private despite the necessity of a third party to complete the correspondence. Likewise, text messages are becoming an ever-increasing substitute for the more traditional forms of communication; thus, it follows that society expects the content of its text messages to receive the same Fourth Amendment protections afforded to letters and telephone calls.
- (2) The trial court correctly held that the four investigative subpoenas used to obtain the content of Clampitt's text messages constituted an unreasonable search because the subpoenas were not sufficiently limited in scope or relevant in purpose in that the State was using the investigative subpoenas to do nothing more than fish for an admission from Clampitt as to whom was driving the vehicle

at the time of the accident when it obtained copies of all text messages sent to and received by Clampitt for a thirty-two day period, which amounted to 300 pages worth of text messaging information.

- (3) The trial court did not err in finding that the good faith exception to the exclusionary rule did not apply to the prosecutor's actions in this case because the search in question was not carried out by police officers subsequent to an invalidated search warrant; nor was the search made in reliance on a statute later found to be unconstitutional or in reliance on binding appellate precedent. Thus, the prosecutor's use of four investigative subpoenas to obtain Clampitt's incoming and outgoing text messages does not fall within any of the recognized good faith exceptions to the exclusionary rule.

Opinion by Joseph M. Ellis, Judge

Date: January 24, 2012

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