

OPINION SUMMARY

MISSOURI COURT OF APPEALS – EASTERN DISTRICT

DIVISION THREE

STATE OF MISSOURI,)	No. ED91541
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	0722CR0196301
)	
ALONZO TOLEN,)	Honorable John J. Riley
)	
Defendant/Appellant.)	FILED: October 27, 2009

Alonzo Tolen (Defendant) appeals from the judgment upon his conviction by a jury for two counts of child molestation in the first degree, Section 566.067, RSMo Cum. Supp. 2007,¹ for which Defendant was sentenced to concurrent terms of six years imprisonment. On appeal, Defendant argues the trial court erred in: (1) overruling Defendant’s motion for judgment of acquittal at the close of evidence because there was insufficient evidence to support one of the charges of child molestation in the first degree, and (2) refusing to allow Defendant to present evidence of prior inconsistent statements made by Defendant’s daughter (Victim).

AFFIRMED IN PART, REVERSED IN PART.

Division III Holds: On Point I, there was insufficient evidence to show that Defendant touched Victim’s anus; therefore, there was insufficient evidence to support Count III. The conviction on Count III is reversed and vacated. On Point II, the trial court did not abuse its discretion in excluding Exhibit A.

Opinion by Mary K. Hoff, Judge Glenn A. Norton, Presiding Judge and
Lawrence E. Mooney, Judge: concur.

Attorney for Appellant: Jessica Hathaway

Attorney for Respondent: Daniel N. McPherson

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.

¹ Unless otherwise indicated, all further statutory references are to RSMo. Cum. Supp. 2007.

