

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED93066
)	
vs.)	Appeal from the Circuit Court
)	of Jefferson County
BILLY COOK, Appellant.)	Filed: March 23, 2010

Billy Cook was convicted by a jury of one count of child molestation in the first degree, Section 566.067, RSMo 2000, two counts of statutory sodomy in the first degree, Section 566.062, RSMo 2000, and one count of statutory sodomy in the second degree, Section 566.064, RSMo 2000, for which he was sentenced to a total of thirty-two years of imprisonment. After the notice of appeal was filed, Cook filed a motion in this court requesting remand to the trial court for the purpose of hearing a motion for new trial based on newly discovered evidence.

REMANDED.

Division Two holds: We grant Cook's motion to remand in light of the Supreme Court's recent decision in State v. Terry, No. SC90332, slip op. (Mo. banc February 10, 2010) and the decision in State v. Mooney, 670 S.W.2d 510, 515-16 (Mo. App. E.D. 1984). Here, as the defendant in Terry, Cook satisfied the required elements to file a motion for a new trial based on newly discovered evidence.

Opinion by: Robert G. Dowd, Jr., J.
Sherri B. Sullivan, P.J. and Patricia L. Cohen, J., concur.

Attorneys for Appellant:

Leah Garabedian, Susan Roach

Attorneys for Respondent:

Chris Koster, Shaun J. Mackelprang and
James B. Farnsworth

<p>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.</p>
