OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,	)	No. ED98038
	)	Appeal from the Circuit Court
vs.	)	of Monroe County
	)	Honorable Rachel Bringer Shepherd
THOMAS A. ESS, Appellant.	)	Filed: September 3, 2013

The defendant, Thomas Ess, appeals the judgment entered by the Circuit Court of Monroe County following his conviction by a jury of two counts of first-degree statutory sodomy, two counts of second-degree statutory sodomy, and one count of attempted first-degree child molestation. The defendant waived jury sentencing, and the trial court sentenced him to a total of 47 years of imprisonment. In five points on appeal, the defendant challenges the trial court's failure to grant a new trial based on juror bias, the sufficiency of the evidence, and the jury instructions.

JUDGMENT REVERSED IN PART, AND REVERSED AND REMANDED FOR RECONSIDERATION OF THE DEFENDANT'S MOTION FOR NEW TRIAL

DIVISION FOUR HOLDS: Given the critical deficiencies of the judgment denying the motion for new trial, we conclude that a manifest injustice or miscarriage of justice will result if the present judgment is allowed to stand on the existing record. We reverse the denial of the defendant's motion for new trial, and remand to the trial court for reconsideration and entry of detailed findings of fact and conclusions of law.

Furthermore, we conclude that the evidence was insufficient to convict the defendant of attempted first-degree child molestation. We reverse the judgment of the trial court regarding this conviction and vacate the four-year sentence associated therewith.

Opinion by: Lawrence E. Mooney, P.J. Patricia L. Cohen, J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Richard H. Sindel

Attorneys for Respondent: Chris Koster and Timothy A. Blackwell

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.