

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE:**

**OREN G GAMBLE, SR., AND DEBRA LYNN GAMBLE, APPELLANTS,  
v.  
JIM BROWNING, DAN CLINE, LARRY MCCOY, SR., JIMMY MCCOY, DENIS  
ECKOLD, MAYOR KAY BARNES, DR. STACEY DANIELS-YOUNG, KARL  
ZOBRIK AND JAVIER M PEREZ AND LARRY MCCOY, JR., (COMPRISING  
FORMER MEMBER OF THE BOARD OF POLICE COMMISSIONERS OF  
KANSAS CITY, MISSOURI), RESPONDENTS; ARTHUR BROOKFIELD,  
BEVERLY BARKER-NIX, AND, JOHN WILLIAMS, DEFENDANTS.**

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DOCKET NUMBER WD67441

DATE: December 2, 2008

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Appeal From:

Jackson County Circuit Court  
The Honorable Edith L. Messina, Judge

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Appellate Judges:

Division Two: Ronald R. Holliger, Presiding Judge, Harold L. Lowenstein, Judge, and Thomas H. Newton, Judge

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Attorneys:

Joseph Paul Bednar, Jr., Jefferson City, MO, for appellant.

Doug Leyshock and Bart Anton Matanic, Office of Attorney General, Jefferson City, MO;  
James Franklin Ralls, Jr., Liberty, MO., for respondent.

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

**OREN G GAMBLE, SR., AND DEBRA LYNN GAMBLE, APPELLANTS,**

**v.**

**JIM BROWNING, DAN CLINE, LARRY MCCOY, SR., JIMMY MCCOY, DENIS ECKOLD, MAYOR KAY BARNES, DR. STACEY DANIELS-YOUNG, KARL ZOBRIST AND JAVIER M PEREZ AND LARRY MCCOY, JR., (COMPRISING FORMER MEMBER OF THE BOARD OF POLICE COMMISSIONERS OF KANSAS CITY, MISSOURI), RESPONDENTS; ARTHUR BROOKFIELD, BEVERLY BARKER-NIX, AND, JOHN WILLIAMS, DEFENDANTS.**

No. WD67441

Jackson County

Before Division Two Judges: Ronald R. Holliger, Presiding Judge, Harold L. Lowenstein, Judge, and Thomas J. Newton, Judge

Oren Gamble and his wife, Debra, sued Larry McCoy, and police officers Jim Browning and Dan Cline for negligence, malicious prosecution, and false imprisonment, after he pled guilty to burglary based on information provided by McCoy. While he was imprisoned, Judge Kelly Moorhouse set aside the guilty plea under Rule 29.07 on the grounds of manifest injustice. The court specifically found that Officers Browning and Cline had failed to disclose favorable information concerning Gamble in violation of *Brady v. Maryland*. In this civil suit the jury found against the Gambles. The Gambles appeal, arguing that the trial court erred by refusing to admit evidence of conversations involving McCoy, Gamble and Gamble's brother on two videotapes, by denying his motion for summary judgment, by allowing evidence of his probation revocation, by admitting evidence of prior bad acts, and by refusing to publish Judge Moorhouse's order finding manifest injustice to the jury.

**REVERSED AND REMANDED**

**Division Two holds:**

The trial court erred by refusing to admit the videotape evidence. One of the excluded comments was an admission by a party opponent. One of the videotapes was incorrectly excluded in its entirety as self-serving. Since McCoy was present when these self-serving statements were made and gave assent to some of them, the evidence was improperly excluded. The exclusion of this evidence prejudiced Gamble because it supported his arguments at trial and contradicted statements made by McCoy at trial. The Gamble's other points of error are incorrect within the context of the first trial, but may require a different result based on how the new trial proceeds.

**Opinion by: Ronald R. Holliger, Presiding Judge**

Date: December 2, 2008

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