

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**CITY OF KANSAS CITY, MISSOURI,
RESPONDENT,**

v.

**WILLIAM HEATHER,
APPELLANT.**

WD68653

January 20, 2009

Appeal From:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE RICHARD E. STANDRIDGE, JUDGE

Appellate Judges:
Division Two: Joseph P. Dandurand, P.J., Harold L. Lowenstein and James M. Smart,
Jr., JJ

Attorneys:
Michael R. Rinard, II, Kansas City, MO, **for appellant.**

Megan Fuller Pfannenstiel, Kansas City, MO, **for respondent**

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

CITY OF KANSAS CITY, MISSOURI, RESPONDENT

v.

WILLIAM HEATHER, APPELLANT

WD68653

JACKSON COUNTY CIRCUIT COURT

The City of Kansas City, Missouri, charged William Heather with a municipal charge of harassment. The City alleged that Heather left the victim a telephone message in which he threatened to kill her. Both the telephone message and a text message were introduced into evidence at trial. Neither contained a statement that Heather would kill the victim. The victim acknowledged this fact. Heather did threaten to "put a shammy" on everyone the victim knew. The victim testified that someone told her "shammy" means "to harm or kill." The City presented no other evidence as to what the term means. The City conceded that other than the term "shammy," there was no evidence that Heather threatened to kill the victim. The court found Heather guilty and sentenced him to 180 days. Heather appeals.

VACATED.

Division Two holds: The City was required to prove each and every element of the offense charged, including the allegation that Heather threatened to kill the victim. Apart from the word "shammy," the City introduced no evidence at trial of a threat to kill the victim. The City did not establish that Heather's use of the term "shammy" equated to a threat to kill. Thus, the City failed to produce sufficient evidence from which a reasonable fact-finder could have found Heather guilty of the crime charged beyond a reasonable doubt. The judgment of conviction and sentence is vacated.

Opinion by James M. Smart, Jr., Judge

January 20, 2009

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