

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE:**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**ANTOINE TERRY,**

**APPELLANT.**

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**DOCKET NUMBER WD69672  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE: May 26, 2009**

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**Appeal From:  
COLE COUNTY CIRCUIT COURT  
THE HONORABLE PATRICIA S. JOYCE, JUDGE**

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**Appellate Judges:  
DIVISION THREE: HAROLD L. LOWENSTEIN, Presiding Judge, JOSEPH M.  
ELLIS and LISA WHITE HARDWICK, Judges**

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**Attorneys:  
Kent Denzel, Esq., Columbia, MO, for appellant.**

**Shaun J. Mackelprang, Esq. and James B. Farnsworth, Esq., Jefferson City,  
MO, for respondent.**

**MISSOURI APPELLATE COURT OPINION  
SUMMARY**

**COURT OF APPEALS -- WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**ANTOINE TERRY,**

**APPELLANT.**

WD69672

Cole County

Antoine Terry appeals from his conviction for first-degree statutory rape. He contends: (1) the evidence is insufficient to establish that he had sexual intercourse with the victim; (2) the circuit court erred in refusing to allow specific evidence that the victim lied about her past sexual activity; and (3) the court erred in failing to intervene, *sua sponte*, when the State asked him on cross-examination whether a detective was lying. He also asks that we remand the case for a new trial due to newly-discovered evidence.

**AFFIRMED.**

Division III holds: Terry is not entitled to remand because the newly-discovered evidence would not completely exonerate him. Even if we were to discount the victim's testimony entirely in light of the newly-discovered evidence, the remaining evidence is sufficient to convict Terry of first-degree statutory rape. The circuit court did not abuse its discretion in excluding evidence of the victim's prior sexual activity because it did not fall within any of the exceptions in the rape

shield statute. Terry failed to demonstrate that he suffered a manifest injustice when the court failed to intervene, *sua sponte*, in the State's cross-examination of him.

Before: Division III: Harold L. Lowenstein, Presiding Judge, Joseph M. Ellis and Lisa White Hardwick, Judges.

Opinion by: Lisa White Hardwick, Judge

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