

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN RE: MATTHEW D. HORNING,

Appellant,

v.

**DANIEL WHITE,
Prosecuting Attorney of Clay County,**

Respondent.

**DOCKET NUMBER WD71206
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

Date: June 22, 2010

Appeal from:
Clay County Circuit Court
The Honorable David P. Chamberlain, Judge

Appellate Judges:
Division One: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and
Cynthia L. Martin, Judges

Attorneys:
Abe Shafer, V., Esq., Weston, MO, for appellant.
Christina M. Lloyd, Esq., Liberty, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

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v.

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WD71206

Clay County

Before Division One Judges: Karen King Mitchell, Presiding Judge,
Lisa White Hardwick and Cynthia L. Martin, Judges

Matthew Horning appeals the denial of his petition to remove his name from the sexual offender registry. He contends the circuit court incorrectly required him to carry a burden of persuasion and abused its discretion in determining that he failed to prove that he is not a potential threat to society.

AFFIRMED.

Division One holds: To have his name removed from the sexual offender registry, Horning was required to “demonstrate” that he is not a current or potential threat to public safety. **§ 589.400.9(1)**. The use of the term “demonstrate” imposed a statutory burden on Horning to prove his claim by a preponderance of the evidence. Thus, the court properly required Horning to satisfy a burden of persuasion. Based on evidence in the record, the court also properly determined

that Horning failed to meet his burden of proving that he is not a potential threat to society. Judgment affirmed.

Opinion by: Lisa White Hardwick, Judge

June 22, 2010

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