

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,  
RESPONDENT  
vs.**

**DAVID N.C. SACHS,  
APPELLANT**

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DOCKET NUMBER WD72821

DATE: APRIL 24, 2012

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Appeal from:

The Circuit Court of Boone County, Missouri  
The Honorable Clifford E. Hamilton, Jr., Judge

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Appellate Judges:

Division Two: Mark D. Pfeiffer, P.J., Joseph M. Ellis and Victor C. Howard, JJ.

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Attorneys:

Evan J. Buchheim, for Respondent

Adam D. Fein, for Appellant

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, RESPONDENT**

**v.**

**DAVID N.C. SACHS, APPELLANT**

WD72821

Boone County, Missouri

Before Division Two Judges: Mark D. Pfeiffer, P.J., Joseph M. Ellis and Victor C. Howard, JJ.

David Sachs appeals from his convictions on one count of possession of child pornography, § 573.035 RSMo 2000, and one count of promoting child pornography in the second degree, § 573.025 RSMo 2000. Specifically, Sachs challenges the admission of evidence recovered as a result of a warrantless search of his personal computer.

**AFFIRMED.**

**Division Two holds:**

- (1) A law enforcement officer clicking on icons on a computer screen to view the various programs running on the computer that were not openly visible was conducting a search.
- (2) The officer's desire to seize the computer, unplug it, and remove it from the residence before obtaining a search warrant was not an exigent circumstance justifying his search of the active files on the computer. The record did not establish any pressing need for the officer to unplug the computer prior to obtaining a warrant.
- (3) By searching Appellant's computer without a warrant, the State violated Appellant's right to be free from unlawful search and seizure, and any evidence uncovered derivative to the officer's unlawful search of the computer should have been excluded from evidence unless an exception to the exclusionary rule was applicable.
- (4) Admission of the pictures of the active computer screens and the officer's testimony related to his access of the active programs on the computer could not be justified by the inevitable discovery doctrine.

(5) To the extent that Appellant challenges the seizure of the computer's hard drive and the admission of the evidence ultimately recovered as a result of a forensic examination of the hard drive after a search warrant was obtained, the record reflects that evidence would have inevitably have been discovered and was properly admitted at trial. At the time of the unlawful search of the active files, the officer had already informed Appellant of his intent to seize and obtain a search warrant for the computer and had more than sufficient probable cause to obtain such a warrant.

(6) The improperly admitted photographs and testimony related to the active files on the computer were cumulative to properly admitted evidence, and the evidence of Appellant's guilt was overwhelming. Accordingly, improper admission of the evidence was harmless beyond a reasonable doubt.

Opinion by Joseph M. Ellis, Judge

Date: April 24, 2012

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