

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

MISSOURI PUBLIC ENTITY RISK MANAGEMENT FUNDS (MOPERM),
Respondent,

v.

S.M., K.W., C.A. f/k/a C.H., JANE POE, K.S., and L.M.,
Appellants.

DOCKET NUMBER WD78286

Date: August 18, 2015

Appeal from:
Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Appellate Judges:
Before Division Three: Lisa White Hardwick, Presiding Judge, Alok Ahuja and Anthony
Rex Gabbert, Judges

Attorneys:
Marshall V. Wilson and Michael G. Berry, Jefferson City, MO for MO Public Entity Risk
Management Fund, respondent.
W. Bevis Schock and Hugh A. Eastwood, St. Louis, MO for Appellants.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

MISSOURI PUBLIC ENTITY RISK MANAGEMENT FUNDS (MOPERM)

v.

S.M., K.W., C.A. f/k/a C.H., JANE POE, K.S., and L.M.,

Respondent,

Appellants.

WD78286

Cole County

Before Division Three: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and Anthony Rex Gabbert, Judges

S.M., K.W., C.A., K.S., and L.M. ("Claimants") appeal from the circuit court's grant of summary judgment in favor of the Missouri Public Entity Risk Management Fund ("MOPERM"). The court determined that a Lincoln County Sheriff's Department lieutenant who sexually abused Claimants while he was acting as a drug court tracker is not covered under MOPERM's memorandum of coverage; therefore, MOPERM has no duty to defend or indemnify him in Claimants' federal civil rights lawsuit against him. On appeal, Claimants contend that MOPERM's memorandum of coverage is ambiguous and, as such, should be construed against MOPERM to provide coverage.

AFFIRMED.

Division Three holds: The circuit court did not err in finding that MOPERM has no duty to defend or indemnify Edwards in Claimants' federal civil rights lawsuit. MOPERM's memorandum of coverage unambiguously limits coverage for personal injury claims against employees to liability incurred only by a "covered party." Because it is undisputed that Edwards was not acting within the course and scope of his duties when he sexually abused Claimants, he is not a "covered party" under the memorandum's plain language and, therefore, is not entitled to coverage. The judgment is affirmed.

Opinion by: Lisa White Hardwick, Judge

August 18, 2015

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.