

Summary of SC93653, *Taryn Williams v. State of Missouri, Department of Social Services, Children's Division, Child Abuse and Neglect Review Board*

Appeal from the Jackson County circuit court, Judge Marco A. Roldan
Argued and submitted December 3, 2014; opinion issued July 8, 2014

Attorneys: The department of social services was represented by Gary L. Gardner of the attorney general's office in Jefferson City, (573) 751-3321; and Williams was represented by Christopher Mirakian and James R. Hobbs of Wyrsh Hobbs & Mirakian PC in Kansas City, (816) 221-0080.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The state's children's division appeals a trial court judgment ordering the division not to include a woman's name on the state's child abuse and neglect central registry because the children's division failed to comply with statutory deadlines for investigations. In a 4-3 decision written by Judge Paul C. Wilson, the Supreme Court of Missouri vacates the judgment and remands (sends back) the case. For the reasons articulated in the companion case – No. SC93471, *Frye v. Department of Social Services*, also decided today – the trial court erred in imposing a sanction as a consequence of the children's division's failure to comply with the statutory deadlines. The trial court also erred in finding the children's division's "good cause" was insufficient to extend its investigation beyond 30 days, as no such review is authorized by the statutes.

Judge George W. Draper III dissents. He would affirm the trial court's judgment. For the reasons articulated in this dissent and that in *Frye*, he would hold, because the children's division failed to act within the statutory timeframe, it had no authority to place the woman's name on the central registry.

Facts: The state's children's division received a hotline call in October 2010 reporting sexual maltreatment of a minor child by Taryn Williams, a volunteer coach of the child's swimming team. The division began its investigation the same day. On the 31st day, the division stated its investigation would be delayed beyond 30 days, citing as "good cause" an ongoing "co-investigation" with police. In February 2011, the division prepared its written notice of its determination substantiating the report of abuse. Four days later – approximately 133 days after beginning its investigation – the division notified Williams of its decision. Williams timely sought review by the child abuse and neglect review board, which affirmed the division's determination. Williams then sought review in the circuit court, which determined that, because the children's division failed to comply with statutory deadlines governing investigations, implicating Williams' due process rights under the state constitution, Williams' name should not be included on the state's child abuse and neglect central registry. The division appeals.

VACATED AND REMANDED.

Court en banc holds: (1) The trial court erred in imposing a sanction as a consequence of the children's division's failure to comply with the deadlines in sections 210.145 and 210.152.2,

RSMo, that never was approved by – and perhaps never even was envisioned by – the legislature. The reasoning in the companion case – No. SC93471, *Frye v. Department of Social Services*, also decided today – controls the disposition of Williams’ case. The trial court’s actions were contrary to this Court’s precedent and to the legislature’s purposes and procedures embodied in the child abuse act in chapter 210, RSMo.

(2) The trial court erred in finding the children’s division’s “good cause” was insufficient to extend its investigation beyond 30 days. Under section 210.145.14, the division must identify the “good cause” that requires it to exceed the 30-day limit on investigations. The division noted it had good cause for continuing the investigation past 30 days because it was waiting for information from the local police department that was supporting the division’s investigation pursuant to section 210.145.5. The trial court found this basis was not “good cause” because, in the end, the information from police was not the basis for the division’s determination about Williams. As set forth in *Frye*, courts are not free to impose a sanction unless approved by the legislature for use in such circumstances. Nothing in the statute approves the sanction imposed by the trial court; in fact, the division did everything section 210.145.14 says the division “shall” do. Nothing in the judicial review provisions of section 210.152 or this Court’s precedent allow a trial court to review the division’s good cause determinations.

Dissenting opinion by Judge Draper: The author would affirm the trial court’s judgment. For the reasons articulated in this dissent and that in *Frye*, he would hold, because the children’s division failed to act within the statutory timeframe, it had no authority to place the woman’s name on the central registry. Although the division informed Williams – outside the 30 days contemplated by section 210.145.14 – that its investigation would be delayed for “good cause” in that it was involved in a “co-investigation” with police, it was unable to make a decision until more than 180 days later, well beyond the period contemplated by section 210.152.2, admitting it based its determination on the information it gathered during the first 30 days of its investigation.