Summary of SC99231, *In the Interest of: C.A.R.A. v. Jackson County Juvenile Office*
Appeal from the Jackson County circuit court, Judge Jalilah Otto
Argued and submitted October 20, 2021; opinion issued January 11, 2022

Attorneys: C.A.R.A. was represented by Jeffrey C. Esparza of the public defender's office in Kansas City, (816) 889-7699. The juvenile officer was represented by Bree A. Sturner of the juvenile office in Kansas City, (816) 435-4725.

This summary is not part of the opinion of the Court. It is provided by 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: A juvenile appeals from a judgment finding he committed acts that would have constituted first-degree statutory sodomy if committed by an adult after the circuit court permitted witnesses to testify via two-way live video. In a unanimous decision written by Judge Zel M. Fischer, the Supreme Court of Missouri vacates the judgment and remands (sends back) the case. The circuit court erred by admitting the witnesses' testimony. Two-way video procedures do not categorically satisfy the requisite constitutional confrontation clause safeguards, and the circuit court otherwise failed to make the requisite witness-specific findings that would excuse the witnesses from testifying in the juvenile's presence.

Facts: The Jackson County juvenile officer alleged C.A.R.A. committed acts that would constitute first-degree statutory sodomy if committed by an adult. Prior to the adjudication hearing, C.A.R.A. filed an objection to virtual adjudication of the matter and requested to appear in person. The juvenile officer argued the adjudication hearing should be conducted via videoconferencing technology due to the COVID-19 pandemic. The circuit court conducted the hearing using a hybrid format in which C.A.R.A., his counsel, and the judge were present in the courtroom but all other witnesses testified via live two-way video. C.A.R.A.'s objections to witness testimony via live two-way video were overruled. The circuit court sustained the first-degree statutory sodomy allegations and committed C.A.R.A. to the director of family court services' custody for residential placement. C.A.R.A. appeals.

VACATED AND REMANDED.

Court en banc holds: The circuit court violated C.A.R.A.'s constitutional rights to confrontation by admitting the witnesses' two-way live video testimony. This Court is not willing to find two-way video procedures categorically satisfy the safeguards of the Confrontation Clause. Because the circuit court made no witness-specific findings regarding unavailability, this Court need not decide whether the combination of oath, cross-examination and observation of demeanor – when utilized in a two-way video setting in which the witness is in a remote location with minimal or no safeguards – is ever enough to ensure the reliability of any witness. Furthermore, although this Court's COVID-19 directives encouraged use of available technologies to limit in-person courtroom appearances, this Court's order specifically stated courts could use such technologies only to the extent not prohibited by constitutional or statutory provisions, expressly identifying juvenile delinquency proceedings as an exception to the suspension of in-person proceedings. Additionally, although the victim was a minor, the circuit

court failed to make the requisite statutory findings to permit testimony outside C.A.R.A.'s presence. And even if this Court were to assume the COVID-19 pandemic could satisfy the important public policy standard to permit testimony outside C.A.R.A.'s presence, the circuit court failed to make any witness-specific findings as to health or other circumstances that would require the victim's mother and babysitter to testify remotely.