Summary of SC99251, *In the Interest of: J.A.T. 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: J.A.T. 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 assault and armed criminal action if committed by an adult after the circuit court required him to participate in the adjudication hearing via two-way video. In a decision written by Judge Zel M. Fischer and joined by five other judges, the Supreme Court of Missouri vacates the judgment and remands (sends back) the case. The circuit court violated the juvenile's due process rights by not allowing him to be physically present at the adjudication hearing, which constitutes a critical stage of the proceeding and was the juvenile's opportunity to defend himself against the juvenile office's accusations.

In an opinion joined by two other judges, Judge W. Brent Powell concurs. He agrees the juvenile's due process rights were violated but writes separately to caution against construing the principal opinion's holding too broadly.

Facts: The Jackson County juvenile officer alleged J.A.T. committed acts that would constitute first-degree assault, first-degree attempted robbery and armed criminal action if committed by an adult. Prior to the adjudication hearing, J.A.T. objected the matter being adjudicated virtually and requested to appear in person. The juvenile officer argued a two-way video hearing would protect J.A.T.'s constitutional rights and was appropriate due to the COVID-19 pandemic. Over J.A.T.'s objection, the circuit court required him to appear via two-way video. All other participants, including J.A.T.'s attorney and the juvenile officer, attended the hearing in person. In overruling J.A.T.'s objection, the circuit court stated this Court's order regarding the COVID-19 pandemic gave express permission to conduct such hearings using two-way video. The circuit court also stated it was the detention center's policy to not transport juveniles to and from court to limit exposure. The circuit court sustained the assault and armed criminal action allegations and committed J.A.T. to the division of youth services' custody. J.A.T. appeals.

VACATED AND REMANDED.

Court en banc holds: The circuit court violated J.A.T.'s due process rights when it required him to participate in the adjudication hearing via two-way video. A defendant has a due process right to be present at a proceeding whenever his or her presence has a reasonably substantial relation to his or her full opportunity to defend against the charge. Likewise, a defendant is guaranteed to be present at any stage of the proceeding that is critical to its outcome if his or her presence would contribute to the fairness of the procedure. The adjudication hearing was J.A.T.'s

opportunity to defend himself against the juvenile officer's accusations, and by requiring him to attend via two-way video, the circuit court denied him the crucial right to be physically present at the stage of the proceedings critical to its outcome – the determination of guilt or innocence. And although a defendant can waive the right to be present, J.A.T. repeatedly asserted his right to be physically present at his adjudication hearing so he could better defend himself. The purported necessity of prohibiting J.A.T. from being transported to the hearing from the detention facility for his own protection and for the protection of other juveniles at the detention facility is undercut by the fact that defense counsel was permitted to go to the facility and complete the hearing with J.A.T. after counsel had been present in the courtroom with the circuit judge, the circuit judge's staff, J.A.T.'s parents, the juvenile officer, a deputy juvenile officer, a victim services representative and all the witnesses. Further, this Court's COVID-19 directives did not permit adjudication hearings to be conducted via two-way video.

Concurring opinion by Judge Powell: The author agrees the circuit court violated J.A.T's due process rights by limiting his participation in the adjudication hearing. Nevertheless, he writes separately to caution the principal opinion's holding should not be construed too broadly because, although highly unusual and extraordinary, there are circumstances under which a circuit court may conduct a fair and just hearing despite a juvenile's absence.