OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

IN THE INTEREST OF: D.H.	)	No. ED109226
	)	Appeal from the Circuit Court of the City of St. Louis
	)	Honorable Steven R. Ohmer
	)	Filed: May 3, 2022

D.H. appeals the juvenile court's judgment finding he committed, if he was an adult, third-degree domestic assault and failed to appear for a prior adjudication hearing.

D.H. raises two points on appeal. In his first point, D.H. argues the juvenile court, by conducting his adjudication hearing without his physical presence, violated his constitutional rights to confront the witnesses against him, due process, and be present at all critical stages. In his second point, D.H. argues there was insufficient evidence for the juvenile court to find he purposely failed to appear for a prior adjudication hearing.

REVERSED AND REMANDED.

DIVISION IV HOLDS: The juvenile court violated D.H.'s constitutional right to confront the witnesses against him. The constitutional protections applicable in criminal proceedings also apply in juvenile delinquency proceedings. *In re N.D.C.*, 229 S.W.3d 602, 605 (Mo. banc 2007). The Confrontation Clause provides "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him . . . ." U.S. CONST. amend. VI. Generalized COVID-19 concerns "may not override an individual's constitutional right to confront adverse witnesses in a juvenile adjudication proceeding." *C.A.R.A. v. Jackson Cty. Juvenile Office,* 637 S.W.3d 50, 67 (Mo. banc 2022). The Missouri Supreme Court has emphasized its COVID-19 Operational Directive expressly excluded from its guidance **"[p]roceedings necessary to protect the constitutional rights of criminal defendants**," and encouraged the use of technology "**to the extent not prohibited by constitutional or statutory provisions.**" *Id.* at 64 (emphasis original). While remote appearances may not always violate a party's constitutional rights, necessity or important public policy must be supported by findings of risk particularized to the party appearing remotely. *Id.* at 66. Such findings were not made here. Nor does the juvenile officer cite to statutory authority for a juvenile appearing remotely.

Because we vacate the juvenile court's judgment and remand, we decline to address Appellant's second point.

Opinion by: Philip M. Hess, Judge
Gary M. Gaertner, Jr., Presiding Judge, and Michael E. Gardner, J. concur.

Attorney for Appellant: Amy M. Bartholow and Jeffrey C. Esparza

Attorney for Respondent: James A. Michaels, Jr.

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.