

Summary of SC93187, State ex rel. Department of Social Services, Division of Children Services v. The Honorable Frederick Tucker

Proceeding originating in the Macon County circuit court, Judge Frederick Tucker
Argued and submitted October 7, 2013; opinion issued November 26, 2013

Attorneys: The division was represented by General Counsel Ronal R. Holliger of the attorney general's office in Jefferson City, (573) 751-3321; and the husband was represented by Mistina D. Hollenbeck and Edward L. Campbell of The Campbell Law Firm LLC in Kirksville, (660) 627-1241.

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 children's division seeks to prevent disclosure of reports made to its child abuse and neglect hotline, including the identity of hotline callers, in a case to dissolve the marriage of a man against whom unsubstantiated hotline calls were made. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri makes absolute its preliminary order prohibiting the trial court from enforcing its order directing the division to produce unredacted records of the hotline reports. State law mandates the confidentiality of hotline reports, and an exception that allows certain persons – including the alleged perpetrator – to have access to the reports also mandates that the name of the reporter shall not be furnished.

Facts: A couple sought to dissolve their marriage and determine custody of their children. Eight hotline reports alleging child abuse and neglect were made to the state children's division about the husband but were not substantiated. The husband filed a motion asking the trial court to order the division to release all records concerning the children – including the identity of all persons who made the unsubstantiated reports – asserting the identity of the hotline caller was relevant to prove his wife had made the unsubstantiated reports. The division opposed the husband's discovery request, arguing the identity of a hotline caller is confidential. The trial court ordered the division to produce unredacted records of the hotline reports, including the caller's identity. The division seeks this Court's writ (order) prohibiting the trial court from enforcing its order.

PRELIMINARY ORDER MADE ABSOLUTE.

Court en banc holds: The trial court abused its discretion in ordering disclosure of the identity of the hotline reporters. Section 210.150, RSMo, provides that "[t]he children's division shall ensure the confidentiality of all reports and records" of child abuse and neglect hotline reports. Because it is undisputed that the hotline reports here were unsubstantiated, the only exceptions to the confidentiality requirement are those set forth in section 210.150.3. This subsection permits access to the hotline records by the alleged child victim, that child's parents or guardians, and any alleged perpetrator named in the report, but it specifically provides that "the names of reporters shall not be furnished" to such persons. Under the facts of this case, therefore, there is no applicable exception to the statutory rule of confidentiality. Further, this statutory requirement is not overcome by demonstrating relevance or the absence of an evidentiary privilege.