

Summary of SC94210, *State of Missouri v. Peter D. Hansen*

Appeal from the Greene County circuit court, Judge J. Dan Conklin

Argued and submitted October 1, 2014; opinion issued December 23, 2014

Attorneys: Hansen was represented by Ellen H. Flottman of the public defender's office in Columbia, (573) 777-9977; and the state was represented by Evan J. Buchheim and Todd T. Smith of the attorney general's office in Jefferson City, (573) 751-3321.

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: A man appeals his judgments of conviction for felony child abuse for confining his son and for restricting his son's food. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri affirms the judgment. That the man was acquitted of child endangerment does not require his child abuse convictions to be reversed because the standard for child abuse at the time was "knowingly inflict[ing] cruel and inhuman punishment" – actual physical injury need not result. There was sufficient evidence for the jury to find that the man inflicted cruel and inhuman punishment by knowingly and repeatedly restricting his son's diet to no more than two cups of food a day for several days in a row and by repeatedly placing his son in solitary confinement for days at a time in small room intentionally kept cold and kept dark except when the son was doing school work.

Facts: When police officers and an investigator went to a Springfield church where Peter Hansen and his family were living to investigate a child abuse hotline call, they found Hansen's 14-year-old son in the bathroom of an adjacent, locked building that had no light and was "extremely cold." Hansen said he disciplined his son by confining him in the bathroom and restricting food. When he imposed food restrictions, which lasted from two days to two weeks, Hansen said that he allowed his son a cup of grain for breakfast and a cup of rice and vegetables for dinner and that he occasionally withheld his son's dinner. When he punished his son by confinement, Hansen said that he required his son to stay in a bathroom, measuring approximately 4 feet by 5 feet, from which Hansen had removed the light switch; that he allowed his son a sleeping bag, a sleeping pad, a Bible, a notebook, eating utensils and a few clothes; and that he allowed his son outside for 15 to 30 minutes each day. The temperature in the building was 58 degrees, and a police officer testified the thermostat was set to cool to 40 degrees. The son said his most recent period of confinement had lasted about a week and a half to two weeks. At the time the son was taken into protective custody, he was just more than 5 feet tall and weighed about 83 pounds, putting him in the 5th percentile for his age, and he showed no signs of puberty. A pediatrician determined the son had been provided inadequate calories for appropriate weight gain and growth while in Hansen's custody, and after he was placed in protective custody, the son rapidly gained significant weight and grew several inches. A jury convicted Hansen of two counts of child abuse, for confining his son and for restricting his son's food. The trial court sentenced Hansen to concurrent prison terms of three years, suspended execution of the sentence and ordered 100 days of incarceration. Hansen appeals.

AFFIRMED.

Court en banc holds: There was sufficient evidence to support Hansen’s convictions for child abuse, based both on food restriction and confinement. Under the version of section 568.060.1(1), RSMo, in effect when the alleged abuse occurred, a person commits the crime of child abuse if he knowingly inflicts “cruel and inhuman punishment” on a child younger than 17 years old. Unlike statutes governing child endangerment, a person can inflict cruel and inhuman punishment – committing the crime of child abuse – without inflicting physical injury. The fact that the jury acquitted Hansen of child endangerment, therefore, does not mean his convictions for child abuse must be reversed. The evidence at trial was sufficient for the jury to conclude that Hansen knowingly and repeatedly restricted his son’s diet to only two cups of food per day for several days in a row and that, on occasion, Hansen limited his son to one cup of food per day or no food at all. There was evidence that, as a consequence, the son was malnourished, and his growth and development were impacted negatively. There was evidence that the son’s weight increased 13 pounds within 25 days of being removed from Hansen’s care and nearly 50 pounds within eight months of being removed. Further, if the Eighth Amendment to the United States constitution prohibits depriving inmates of adequate food, surely it is child abuse to knowingly deprive a child of adequate food. The evidence at trial also was sufficient for the jury to conclude that Hansen repeatedly placed his son in solitary confinement for days at a time in a room too small for the son to lie down. The evidence showed that, during these confinements, the son was not allowed to have the light on unless he was doing school work and could leave the bathroom. One officer present when the son was taken into protective custody stated the conditions were “worse than what you would typically find in a prison-type environment.” There was evidence Hansen intentionally kept the room cold but only allowed his son to wear thin flannel pants and a long-sleeved T-shirt.