

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN THE INTEREST OF: T.S.G.

**v.
JUVENILE OFFICER**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD71641

DATE: September 28, 2010

Appeal From:

Jackson County Circuit Court
The Honorable Charles E. Atwell, Judge

Appellate Judges:

Division Three: Victor C. Howard, Presiding Judge, Thomas H. Newton and Gary D. Witt,
Judges

Attorneys:

Patricia A. Harrison, St. Louis, MO, for appellant.

Michael R. Fogal, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN THE INTEREST OF: T.S.G.,

APPELLANT,

**v.
JUVENILE OFFICER,**

RESPONDENT.

No. WD71641

Jackson County

Before Division Three Judges: Victor C. Howard, Presiding Judge, Thomas H. Newton and Gary D. Witt, Judges

T.S.G. appeals the juvenile court's judgment that she committed a status offense under Section 211.031.1(2)(d) of behavior injurious to her welfare.

REVERSED.

Division Three holds:

As a threshold matter, this Court must consider whether the case is moot. Although T.S.G. has already been released from the jurisdiction of the juvenile court, which would generally make this matter moot, this Court chooses in its discretion to address the merits of T.S.G.'s appeal. We choose to exercise our discretion because this issue is one of general public interest and importance, capable of recurring and avoiding appellate review, and because the decision being appealed could have significant collateral consequences to T.S.G. if left unaddressed.

The juvenile court filed a Petition alleging a delinquency offense and the court later amended the Petition, after the close of evidence, to charge a status offense.

It has long been settled that due process and fair treatment are required in juvenile court adjudications of delinquency by the Due Process Clause of the Fourteenth Amendment. Notice of the charges against a defendant given sufficiently in advance of trial so that a reasonable opportunity to prepare is afforded the defendant is essential to due process. The juvenile court found that the Juvenile Officer failed to meet the burden of proof as to the delinquency charge included in the original Petition. Once the Juvenile Officer failed to meet her burden, the juvenile court was bound to release T.S.G. from its jurisdiction. Here, the juvenile court, by amending the Petition after the close of evidence to include a separate and distinct charge and subsequently finding T.S.G. had committed the amended status offense only, violated T.S.G.'s right to due process under the Fourteenth Amendment.

We reverse the judgment of the juvenile court, and T.S.G. is ordered discharged from the effects of that disposition; any records of this adjudication shall be removed from T.S.G.'s files.

Opinion by: Gary D. Witt, Judge

September 28, 2010

This summary is UNOFFICIAL and should not be quoted or cited.