

**SYNOPSIS OF THE ONE CRIMINAL OPINION OF INTEREST IN THE MISSISSIPPI  
SUPREME COURT HANDED DOWN APRIL 21, 2016**

*In the Interest of: J.T., a Minor, D.T. and M.T. v. Hinds County Youth Court*, No. 2015-CA-00160-SCT (Miss. April 21, 2016)

**CASE:** Youth Court - Adjudication of a Sexually Abused Child

**COURT:** Hinds County Youth Court

**TRIAL JUDGE:** Hon. William Louis Skinner, II

**TRIAL ATTORNEYS:** Louise Harrell, E. Stephen Williams

**APPELLANT ATTORNEY:** E. Stephen Williams, Matthew Toxey Vitart

**APPELLEE ATTORNEY:** Bridget R. Todd

**DISPOSITION:** Youth Court Adjudication of a Sexually Abused Child Reversed and Remanded. Dickinson, Presiding Justice, for the Court. Waller, C.J., Lamar, Kitchens, King and Coleman, JJ., Concur. Maxwell, J., Concur in Part and in Result Without Separate Written Opinion. Beam, J., Concur in Part and in Result with Separate Written Opinion Joined by Randolph, P.J.; Waller, C.J., and Maxwell, J., Join in Part.

**ISSUES:** (1) Whether there was sufficient evidence to support a finding of a sexually abused child, and (2) whether improper hearsay evidence was allowed into evidence.

**FACTS:** On October 30, 2014, a daycare teacher contacted the Mississippi Department of Human Services (DHS), and reported that three-year-old J.T. "told her teacher . . . that dad put his fingers in her," and that J.T. "pointed at her vagina." DHS initiated an investigation. Cirby Scott, a DHS family-protection specialist, spoke with J.T.'s mother—M.T.—who stated that she knew of no abuse. Scott also spoke to J.T.'s father—D.T.—who denied the allegations. Scott permitted J.T. to remain in her mother's custody but required D.T. to leave the home and have no contact with J.T. A medical examination discovered no physical evidence of abuse. On November 3, 2014, a petition was filed in the Hinds County Youth Court, seeking to adjudicate J.T. a sexually abused child. During a shelter hearing, the youth court determined that probable cause existed that J.T. had been sexually abused. On November 10, 2014, the youth court held a second shelter hearing. Scott testified that, during the forensic interview, J.T. had made a statement similar to the one reported by the school. So the youth court left its prior orders in force. On December 30, 2014, the case proceeded to adjudication. Scott, who testified that she had observed J.T. state that D.T. "touched her in her booty" during the forensic interview. Scott explained that J.T. "pointed to the pictures showing that her booty was her vaginal area." Scott reported that J.T. also disclosed that she had been touched by a friend at school. The CAC forensic-interview report was entered over objections to hearsay and violations of the Confrontation Clause. DT denied any abuse, but admitted he may have poked her while he was helping her get dressed. Scott testified several that friends and family members interviewed all denied the allegations. The family had no history with DHS. J.T.'s counselor reported that J.T. never had mentioned sexual contact and had shown no sexually inappropriate play during her sessions. An investigative guardian ad litem report was also admitted over hearsay objections.

Based on this evidence, the youth court adjudicated J.T. a sexually abused child. The judge left her in her mother's custody, and ordered that she receive counseling as needed. The no-contact order was left in place. J.T.'s parents appealed.

**HELD:** (1) The State failed to produce sufficient evidence to prove that J.T. had been sexually abused. The Mississippi Youth Court Act requires the State to prove by a preponderance of the evidence that a child has been sexually abused. The State's case relied entirely on the child's statement. J.T. told her teacher and the CAC forensic interviewer that her father had stuck his finger inside her one time to get a "tiny cat" out of her "booty." The child also indicated that "inside her" referred to her vagina. Beyond the child's statement, neither DHS nor the investigative guardian ad litem discovered any evidence of abuse during their respective investigations. Family and friends strongly denied the allegations.

But this child's statement could describe either sexual abuse or innocent contact between a father and daughter, and no additional evidence was provided to show abuse. The parents denied the allegation and provided an innocent explanation. And every witness interviewed by DHS indicated that no abuse had occurred. Under these unique circumstances, the child's statement did not provide sufficient evidence to support the abuse adjudication.

(2) The SCT found it necessary to clarify "that the Rules of Evidence do apply in youth-court adjudications with full force and effect." Rule 1101(b) does not except youth-court *adjudication* hearings, only probable cause hearings.

To the extent that this Court or the Court of Appeals has held that the Mississippi Rules of Evidence have some diminished force in youth-court *adjudications*, we overrule the cases. When the youth court adjudicates the ultimate issue of abuse, the Rules must be given full effect. [emphasis supplied].

To suggest that the Rules should be "relaxed" in youth court is to suggest that a child's best interests are served when youth-court judges base their decisions on unreliable evidence. Except where specifically superseded by a youth-court-specific rule, the Mississippi Rules of Evidence apply with full force and effect to youth-court adjudications

### **Beam, Justice, Concurring in Part and in Result:**

Justice Beam concurred in the judgment, but believed that precise rules of evidence should be relaxed somewhat in proceedings where the welfare of children is involved.

To read the full opinion, click here:

<http://courts.ms.gov/Images/Opinions/CO109903.pdf>

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