

IN THE
SUPREME COURT OF OHIO

JANE ROE, *et al.* : NO. 2007-1832
Plaintiffs-Appellants, : On Appeal from the Hamilton
County Court of Appeals, First
vs. : Appellate District
PLANNED PARENTHOOD : Appeal No. C-060557
SOUTHWEST OHIO REGION, : Trial No. A-0502691
et al. :
Defendants-Appellees.

**BRIEF AMICUS CURIAE OF THE HONORABLE JOSEPH T. DETERS,
PROSECUTING ATTORNEY OF HAMILTON COUNTY, OHIO, AND
THE HONORABLE RACHEL A. HUTZEL, PROSECUTING ATTORNEY
OF WARREN COUNTY, OHIO, IN SUPPORT OF PLAINTIFFS-APPELLANTS'
MOTION FOR RECONSIDERATION**

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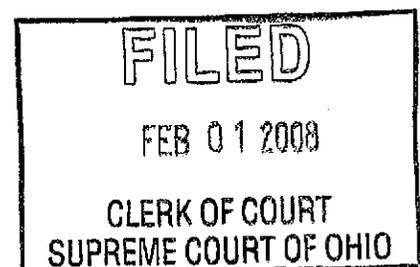


TABLE OF CONTENTS

MEMORANDUM AMICUS CURIAE IN SUPPORT
OF APPELLANTS' MOTION FOR RECONSIDERATION

A. Interests of *Amicus Curiae* 1.
B. Argument 2.

**THE LEGISLATURE ENACTED R.C. 2151.421 IN PART TO PROVIDE
THE MEANS BY WHICH OHIO IS ABLE TO PROTECT ITS CHILDREN
FROM ABUSE, AND THE DECISION BY THE COURT OF APPEALS
WILL SIGNIFICANTLY DIMINISH THE EFFECTIVENESS OF THE
STATUTE AND THE ABILITY OF OHIO PROSECUTING ATTORNEYS
TO IDENTIFY AND STOP CHILD ABUSERS**

C. Conclusion 5.
Certificate of Service 6.

MEMORANDUM

A. Interests of Amicus Curiae

This Court correctly recognized in *Yates v. Mansfield Bd. of Educ.* that child abuse, sexual and physical, is a “pervasive and devastating force in our society” and may already be “a problem of epidemic proportions.”¹ The Ohio legislature also recognized the seriousness and scope of this problem when it enacted R.C. 2151.421. As elected officials with the duty to prosecute certain of the persons who violate R.C. 2151.421 within our respective jurisdictions, we are in agreement with this Court’s assessment of the problem.

As Prosecuting Attorneys we are also very concerned that many individuals and entities who are mandated reporters under R.C. 2151.421 are not fulfilling their duties to report. We are even more concerned that certain mandated reporters may be intentionally breaching those duties and, in essence, helping child abusers to cover up and continue the abuse they are perpetrating. As such, to protect children from abuse by “eliminat[ing] the source of the abuse,”² we have a strong interest in defending one of the better means the Ohio legislature has made available to everyone, including Ohio prosecuting attorneys, to identify those persons and entities who do not fulfill their duties under R.C. 2151.421.

¹102 Ohio St.3d 205, 207 (2004).

²*Id.*, at 218, citing *Brodie v. Summit Cty. Children Serv. Bd.* (1990), 51 Ohio St.3d 112, 554 N.E.2d 1301.

B. Argument

As discussed above, this Court is already fully aware of how pervasive the problem of child abuse has become in Ohio. Studies done on the topic make clear that this Court's assessment is 100% correct. Indeed, one study found that, from 1998 to 2002, the number of Ohio children abused and neglected more than doubled.³ Further, our experience has led us to conclude that many mandated reporters under R.C. 2151.421 are not fulfilling their duties under that statute, and some may be intentionally failing to do so. The resulting harm can be, and very often is, devastating not only to the abused children, but to society as a whole. ("Based on best available research, as many as 2,006 of the 50,140 Ohio victims of abuse and neglect [between 1998 and 2002] will grow up to be violent criminals who would have never become so if not for the maltreatment they received as children."⁴)

³www.pcao.org/whatis/stats.cfm.

⁴*Id.*

THE LEGISLATURE ENACTED R.C. 2151.421 IN PART TO PROVIDE THE MEANS BY WHICH OHIO IS ABLE TO PROTECT ITS CHILDREN FROM ABUSE, AND THE DECISION BY THE COURT OF APPEALS WILL SIGNIFICANTLY DIMINISH THE EFFECTIVENESS OF THE STATUTE AND THE ABILITY OF OHIO PROSECUTING ATTORNEYS TO IDENTIFY AND STOP CHILD ABUSERS

Under R.C. 2141.421 mandated reporters are required to make reports to proper authorities when they suspect or know that a child is a victim of sexual and/or physical abuse. Failure to report abuse or suspected abuse to authorities can be a criminal offense. To effectuate the purpose of the statute - *i.e.*, to protect children from abuse by identifying and stopping child abusers - it is essential that (1) mandated reporter responsibilities be clear, and (2) all Ohioans, including the Prosecuting Attorneys, have the right and means to verify whether mandated reporters are meeting their duties under R.C. 2151.421.

The undersigned respectfully submit that, by its Decision in *Roe v. Planned Parenthood Southwest Ohio Region*, Case No. C-060557, the First Appellate District, in part, ruled in a manner that is in direct conflict with what the Ohio legislature intended when R.C. 2151.421 was enacted. For example, the prohibition in R.C. 2151.421 against the use of abuse reports is limited to proceedings against the person who made the report, not to proceedings against persons who systematically and intentionally ignore their reporting duties. The First Appellate District's interpretation of the statute will encourage persons who have a duty under the statute *not* to

make reports, which will result in children being more vulnerable to abusers, as well as the protection of abusers, not children who are being abused.

We respectfully submit that this Court's refusal to hear Plaintiffs'-Appellants' Propositions of Law Nos. 4, 5 and 6 will significantly diminish the effectiveness of R.C. 2151.421, as well as the ability of Ohio Prosecuting Attorneys to protect children from abusers.

C. Conclusion

For the reasons stated above, the undersigned requests that Plaintiffs'-Appellants' Motion for Reconsideration be granted.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2008, I have mailed a copy of the foregoing Brief *Amicus Curiae* in Support of Plaintiffs'-Appellants' Motion for Reconsideration via regular U.S. mail, postage prepaid, to the following:

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