

MCGEE CIVIL RIGHTS MOOT COURT 2022-2023 PROBLEM

Presented by Mitchell Hamline School of Law

You are counsel arguing on appeal *In the Matter of the Child of H.B.G., Parent*. This is an appeal from an order in a child-protection case in McGee state court. McGee's Department of Human Services received a report alleging H.G.'s child was in need of protective services due to neglect. A DHS child-protection worker requested to enter H.G.'s home to investigate but H.G. would not consent to the entry. DHS subsequently filed a petition in state court seeking a court order compelling H.G. to allow child protection workers to enter and search her home. DHS also sought an order prohibiting H.G. from broadcasting a live stream from inside her home to social media websites during the time child-protection workers were at and inside the home. The district court granted the petition, including the prohibition on live streaming. McGee's intermediate appellate court, the McGee Court of Appeals, affirmed the order compelling H.G. to allow workers to enter and search her home but reversed the order prohibiting H.G. from broadcasting a live stream. The McGee state Supreme Court granted review of the Court of Appeals' decision.

The case presents two sets of issues: a set of Fourth Amendment issues and a set of First Amendment issues.

The issues on appeal are as follows:

1. The Fourth Amendment Issues

- A) Does the same Fourth Amendment analysis used in criminal law to determine whether there is probable cause for police to search a home for evidence of a crime apply to determine whether there is probable cause justifying an order compelling a caregiver to allow child protection workers to enter and search a home to investigate possible neglect?
- B) Was probable cause to enter and search H.G.'s home established under the applicable standard and rules?

2. The First Amendment Issues

- A) Does the order prohibiting H.G. from live streaming regulate activity protected by the First Amendment?
- B) If so, what level of scrutiny applies, and does the order satisfy that level of scrutiny?

Each team must address both the Fourth Amendment issues and the First Amendment issues. Briefing and argument must be limited to the above-described issues, and the parties should not address issues outside the identified questions.

This proceeding takes place in the McGee state Supreme Court. Therefore, while decisions of the United States Supreme Court are, of course, binding precedent, decisions of federal courts and of other state courts are not binding, though they may be persuasive.