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IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE MATTER OF

Name _____, Juvenile Case No. _____
Year of Birth _____ A [] male [] female

JOURNAL ENTRY OF HEARING ON MOTION FOR TESTIMONY OUTSIDE OF COURTROOM

Pursuant to K.S.A. 38-2359

Now, on this _____ day of _____, _____, the Court considers the request that testimony be taken outside of the courtroom, Judge _____ presiding.

- [] The State appears by _____ County/District Attorney or designee.
[] The juvenile appears [] in person and [] not in person, but by the juvenile's attorney, _____ . [] Attending the proceedings relating to this motion would be injurious to the juvenile's health, and the presence of the juvenile is waived.
[] The mother [] is present [] is not present.
[] The father [] is present [] is not present.
[] The CSO is present through _____ .
[] The Commissioner is present through _____ .
[] Also present is/are: _____

The Court, having reviewed the file, received the evidence, and heard statements of counsel, makes the following findings, and enters the following orders:

[] The motion was filed by the juvenile and the alleged victim is a child of less than 13 years of age. The motion is granted.

or

[] The evidence presented by the State in support of their motion is not sufficient to determine that the alleged victim will be so traumatized as to prevent the child from reasonably communicating to the fact finder or render the child unavailable to testify. The motion is denied.

or

[] The motion was filed by the State, the alleged victim is a child of less than 13 years of age, and there is clear and convincing evidence that to require the alleged victim to testify in open court will so traumatize the child as to prevent the child from reasonably communicating to the fact finder or render the child unavailable to testify. The motion is granted and testimony may be taken outside of the courtroom. The testimony shall be taken as set out in K.S.A. 38-2359, and only the following persons may be present in the room during the child's testimony: the attorneys for the juvenile, the state and the child, any person whose presence would contribute to the welfare and

well-being of the child, and persons necessary to operate the equipment.

IT IS SO ORDERED this _____ day of _____, _____.

Judge of the District Court

Authority

K.S.A. 38-2359.

Notes on Use

An alleged victim's testimony may be taken outside the courtroom, under procedures recited by the statute, if the alleged victim is a child less than 13 years of age. If the testimony is to be presented in the courtroom as a recording, specific conditions must be followed as provided in the statute, and the state must establish by clear and convincing evidence that requiring the alleged victim to testify in open court will so traumatize the victim as to prevent the victim from reasonably communicating to the jury or render the victim unavailable to testify. An objection to the admissibility of the testimony taken out of the courtroom may be filed by the procedure provided in the statute. K.S.A. 38-2359.

Comments

The provisions of K.S.A. 60-460(dd) (statements by children) are inapplicable to juvenile offender proceedings. *In re Mary P.*, 237 Kan. 456, 701 P.2d 681 (1985).