

SUPREME COURT OF COLORADO

People of the State of Colorado v. In the Interest of E.L.T., a Child, and Concerning Maria Thorpe

139 P.3d 685 (Colo. 2006) · No. No. 05SA166 · Decided June 26, 2006

SUMMARY

The Colorado Supreme Court reviewed an interlocutory appeal from an order disqualifying the Mesa County District Attorney's Office from prosecuting a juvenile delinquency case. The court remanded because the trial court had not identified the legal basis for disqualification or made findings sufficient to determine whether the requirements of Colorado Revised Statutes section 20-1-107 were met. A dissent would have affirmed the disqualification based on conflicts involving the district attorney and former attorneys for the juvenile's family.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Rice
JURISDICTION	Colorado
DECIDED	June 26, 2006
DOCKET	No. 05SA166
DISPOSITION	remanded
PROCEDURAL POSTURE	The People brought an interlocutory appeal from an order disqualifying the Mesa County District Attorney's Office from prosecuting a juvenile-delinquency case and directing appointment of a special prosecutor.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Colorado; precedential
PARTIES	The People of the State of Colorado v. Maria Thorpe

TOPICS

[criminal procedure](#)[appellate procedure](#)[interlocutory appeal](#)[standard of review](#)[preservation of error](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by disqualifying the entire Mesa County District Attorney's Office without identifying the statutory or other legal basis for disqualification.
2. Whether the disqualification order should be reviewed under the grounds established by section 20-1-107(2), including personal or financial interest and special circumstances that would make a fair trial unlikely.

HOLDINGS

1. The trial court's disqualification order could not be reviewed because the court did not identify the legal basis for finding a conflict or disqualifying the district attorney's office.
2. Disqualification of a district attorney must be evaluated under the terms of section 20-1-107 rather than solely on an appearance-of-impropriety rationale.

KEY QUOTATIONS

"We remand to the trial court with instructions to determine whether disqualification is necessary under the terms of section 20-1-107." (687)

FACTUAL BACKGROUND

E.L.T., a juvenile, was charged with conduct constituting third-degree assault, a class-one misdemeanor if committed by an adult. E.L.T.'s mother sought disqualification of the Mesa County District Attorney's Office, alleging that three attorneys in the office had previously represented her and E.L.T. in private practice and had obtained confidential attorney-client information. She also alleged that the district attorney and office attorneys faced a notice of intent to sue and attorney grievances. The trial court found a conflict, disqualified the office, and ordered appointment of a special prosecutor without identifying the governing legal basis.

PROCEDURAL HISTORY

E.L.T. was charged in juvenile court with acts constituting third-degree assault if committed by an adult. E.L.T.'s mother, Maria Thorpe, moved to disqualify the Mesa County District Attorney's Office based on alleged conflicts arising from prior representation by attorneys then employed by the office and a notice of intent to sue the district attorney. The trial court granted disqualification, later clarified its reasons, stayed the order pending appeal, and the People appealed under Colorado's interlocutory-appeal statutes and C.A.R. 4.1. The Supreme Court remanded for the trial court to determine whether disqualification was required under section 20-1-107.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must determine whether disqualification of the Mesa County District Attorney's Office is necessary under the terms of section 20-1-107, including the applicable statutory grounds and, if relevant, the substantial relationship of the prior representation and the adequacy of any screening policy.

CASES CITED

- People v. N.R., 139 P.3d 671, 675 (Colo. 2006)
- People v. Chavez, 139 P.3d 653 (Colo. 2006)

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