

IN THE COMMON PLEAS COURT OF MIAMI COUNTY, OHIO
GENERAL DIVISION

STATE OF OHIO	:	CASE NO. 26 CR 88
Plaintiff,	:	
vs.	:	Judge Jeannine N. Pratt
CALEB C. FLYNN	:	
Defendant.	:	<u>DECISION DENYING MOTION FOR</u>
	:	<u>RIGHTS OF CHILD WITNESS WHEN</u>
	:	<u>TESTIFYING</u>
	:	

This matter came before the Court on the State's Motion relating to the Rights of a Child Witness When Testifying filed April 17, 2026. The Defendant filed a Memorandum in Opposition on April 22, 2026. An evidentiary hearing was held on April 23, 2026. Upon review of the State's Motion, the Defendant's Response, and the parties' arguments at the hearing, the Court makes the following findings:

The parties stipulated that the State intends to call two child witnesses, ages 9 and 12, at trial. The State requests enforcement of the rights as set forth in R.C. §2945.483(B) regarding child witnesses, including the use of a screen to ensure the children cannot see the Defendant or public, or both while testifying as provided in R.C. §2945.483(B)(7). The Defendant objects to the State's request, relying on *State v. Johnson*, 2026-Ohio-757 (2nd Dist. Montgomery), asserting that the use of any preventative or precautionary measures for the child witnesses

without individualized findings that such measures are necessary, violates the defendant's constitutional rights, specifically the Confrontation Clause and may constitute reversible error.

The State maintains that *Johnson* does not apply and that the statutory language found in R.C. §2945.483 is mandatory and does not require any particularized findings in order to enforce the rights of the child witnesses. Based on that interpretation of the statute, the State presented no evidence, testimony, or case-specific findings to support the necessity of employing protective measures for the child witnesses in this case.

Although *Johnson* addresses R.C. §2945.481 rather than R.C. §2945.483, this Court finds its constitutional analysis highly instructive to the case at bar. In *Johnson*, the Second District Court of Appeals held that the R.C. §2945.481 was not unconstitutional on its face, but that its application violated the Confrontation Clause where the trial court failed to make individualized findings justifying the protective measure. The Court emphasized that procedures limiting face-to-face confrontation must be supported by specific evidence demonstrating necessity in a particular case.

The United States Supreme Court has consistently required such individualized findings. In *Coy v. Iowa*, 487 U.S., at 1021, 108 S.Ct. 2798, 101 L. Ed. 2d 857 (1988), the Court held that a defendant's right to a face-to-face encounter with witnesses is a core component of the Confrontation Clause. The Court rejected the use of preventative measures such as screening the victim from the defendant where such a measure was imposed without case-specific findings, stating that generalized legislative judgments cannot substitute for individualized determinations of necessity.

The Court further held that "even as to exceptions from the normal implications of the Confrontation Clause, as opposed to its most literal application, something more than the type of

generalized finding underlying such a statute is needed when the exception is not 'firmly ... rooted in our jurisprudence.'" *Id.* at 1021 (citing *Bourjaily v. United States*, 483 U.S. 171, 183, 107 S.Ct. 2775, 2782, 97 L.Ed.2d 144 (1987)). Here, R.C. §2945.483 and the child witness rights set forth therein, were first enacted by Ohio legislature on April 6, 2023. It can hardly be viewed as firmly rooted, and the Court therefore must consider more individualized facts in determining its application to the present case.

The Court in *Maryland v. Craig*, 497 U.S. 836, 110 S. Ct. 3157, 111 L. Ed. 2d 666 (1990) also recognized narrow exceptions to face-to-face confrontation, holding that such measures may be permissible only where "the denial of such confrontation is necessary to further an important public policy" and where "the reliability of the testimony is otherwise assured." *Id.* at 850. Crucially, the Court required that the trial court make a case-specific finding that the child witness would be traumatized by the presence of the defendant, not merely by the courtroom environment generally.

Most recently, in *Pitts v. Mississippi*, 146 S. Ct. 413, 223 L. Ed. 2d 151 (2025), the United States Supreme Court reviewed a statute substantially similar to R.C. §2945.483 that purported to mandate the use of a screen upon request by a child witness. The Court held that such a statute violates the Confrontation Clause where it eliminates the requirement of individualized findings. The Court reiterated that "the Sixth Amendment tolerates screening in child-abuse cases only if a court 'hear[s] evidence' and issues a 'case-specific' finding of '[t]he requisite ... necessity.'" *Id.* at 4 (Citing *Craig*, 497 U.S., at 855, 110 S.Ct. 3157). There, the Court found that the state legislature properly exercised its power to protect the rights guaranteed to victims by enacting a law that mandated screening for a child witness. However, the Court pointed out that "[w]hen state law conflicts with the Federal Constitution, the latter controls. *Art.*

VI, cl. 2. And under the Sixth Amendment, neither state screening statutes, nor the 'generalized finding[s]' on which they are premised, are enough to overcome a defendant's right to face-to-face confrontation." *Id.* The Court held that the Confrontation Clause demands a case-specific showing of necessity before a defendant may be deprived of face-to-face confrontation, and invalidated the statute as applied in the absence of such findings.

As addressed above, the State has relied solely on the statutory language of R.C. §2945.483 and has not presented any evidence or argument demonstrating that the use of a preventative or precautionary measures, including but not limited to screening the witness from the defendant, is necessary for these particular child witnesses. There has been no showing that testifying in the presence of the defendant would cause trauma, impair the child's ability to communicate, or otherwise justify deviation from standard confrontation procedures.

Under the controlling authority of *Coy*, *Craig*, and *Pitts*, as well as the persuasive reasoning of *Johnson*, this Court is required to make individualized findings of necessity before permitting such a measure. The absence of any evidentiary basis for such findings is fatal to the State's motion.

While this Court does not declare R.C. §2945.483 unconstitutional on its face, it finds that its application in this case – based solely on its purportedly mandatory language and absent any case-specific showing – would violate this Defendant's rights under the Confrontation Clause.

Therefore, absent a further showing of individualized facts demonstrating the use of a screen is necessary for the child witnesses to testify, the Court finds the State's Motion for Rights of Child Witness When Testifying not well-taken. Accordingly, the Motion is hereby DENIED.

IT IS SO ORDERED.


JEANNINE N. PRATT, JUDGE

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cc: ✓ Prosecutor
✓ L. Patrick Mulligan, Defense
✓ Emily Smith, Defense