



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**In Re: Sara S., CV-05-0023-PR**

**PARTIES AND COUNSEL:** The petitioner is Sara S., represented by John A. Cicala. The respondent is the State of Arizona, represented by Mark Edward Hessinger, Deputy Yuma County Attorney.

**FACTS:**

The State filed a petition alleging that 7-year-old Sara was incorrigible for truancy because she failed to attend school without a lawful excuse on ten occasions in 2003.

The school considered an absence unexcused if a parent did not report it within 24 hours. Sara's mother testified that she was responsible for taking Sara to school, and that she could not call in some of the absences because she had no telephone. She would, however, report prior absences in person when she picked Sara up from school. She also testified that Sara was sick on each of the days of missed school. She admitted that she did not report one absence but that all the others were reported the next day except for the absences from Nov 24-26, when the whole family was sick with the flu. Sara's mother testified that she was too ill to leave the house until Nov. 26 when she went to the school to pick up Sara's homework. She reported the absences then.

The juvenile court found eight of the absences to be unexcused because they were not reported within 24 hours. Sara was adjudicated incorrigible and placed on six months protective supervision. She was discharged from protective supervision on November 3, 2004.

On appeal, Sara contended that the juvenile court did not have jurisdiction over her because A.R.S. § 8-201(13)(a)(iv) defines a "dependent child" as one who is "under the age of eight years and who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older juvenile or child." Thus, a child under eight who commits an otherwise incorrigible act may only be found "dependent."

The appeals court said this claim was not raised in the juvenile court and that, in any event, it is meritless because, under A.R.S. § 8-202, the juvenile court has original jurisdiction over all proceedings brought under that title.

Sara also contended that there was no evidence that she was at fault because any unexcused absences were due to her mother's failure to report the absence. The court found that the juvenile court did not abuse its discretion in adjudicating Sara incorrigible based on truancy.

**Issues Presented:**

- I. Did the Court of Appeals err in finding that a seven-year-old child may be adjudicated incorrigible and placed on probation for school absences that occurred as a result of illness and the child remained home at the direction of and in the company of a parent, and the absences were only deemed “not excused” because of the mother’s failure to comply with a school 24 hour reporting rule?
- II. Did the Court of Appeals err when it determined that a juvenile court has jurisdiction to adjudicate a seven-year-old child incorrigible as well as dependent?
- III. Did the Court of Appeals err by upholding the juvenile court’s finding that there were eight unexcused absences?

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