

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DAVE MOYERS,)
)
Appellant,)
)
v.)
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Case No. 2D11-5478

Opinion filed November 27, 2013.

Appeal from the Circuit Court for Charlotte
County; Peter A. Bell, Acting Circuit Judge.

Howard L. Dimmig, II, Public Defender, and
Maureen E. Surber, Assistant Public
Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Diana K. Bock, Assistant
Attorney General, Tampa, for Appellee.

WALLACE, Judge.

Dave Moyers appeals two orders finding him in indirect criminal contempt
for failing to comply with truancy orders requiring him to ensure his daughter's
attendance at school. On the authority of this court's decision in Sockwell v. State, 38

Fla. L. Weekly D69 (Fla. 2d DCA Dec. 28, 2012), we reverse both of the orders under review.

We need not detail the confusing and convoluted course of the proceedings in the circuit court that led to the entry of the orders under review. It is sufficient to say that the proceedings on both of the orders to show cause at issue in this case suffer from the same procedural and evidentiary deficiencies identified in Sockwell. The truancy court judge improperly acted as the judge and the prosecutor, and the evidence was insufficient to establish Mr. Moyers' willful noncompliance with the truancy court's orders. There was no evidence presented at the hearing on the first order to show cause, and the evidence presented at the hearing on the second order to show cause merely showed that Mr. Moyers' daughter had been absent from or tardy to school on several days. The evidence also showed that a medical condition had prevented the daughter from attending school for several days. There was no evidence that Mr. Moyers had willfully failed to ensure his daughters' timely attendance at school or to obtain medical treatment for her condition. Because of the truancy judge's improper role in the proceedings as prosecutor and because the evidence failed to prove Mr. Moyers' willful noncompliance with the truancy orders beyond a reasonable doubt, we reverse both of the orders under review.

Reversed.

SILBERMAN and VILLANTI, JJ., Concur.