

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA IN  
THE INTEREST OF S.B.**

\*           **NO. 2002-CA-0011**  
\*           **COURT OF APPEAL**  
\*           **FOURTH CIRCUIT**  
\*           **STATE OF LOUISIANA**  
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APPEAL FROM  
JUVENILE COURT ORLEANS PARISH  
NO. 01-183-07-QF, SECTION "F"  
Honorable Mark Doherty, Judge  
\* \* \* \* \*  
**Judge Miriam G. Waltzer**  
\* \* \* \* \*

(Court composed of Judge Miriam G. Waltzer, Judge Patricia Rivet Murray,  
Judge Michael E. Kirby)

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**AFFIRMED.**

The State appeals from the judgment of the Juvenile Court for Orleans Parish, arguing that the trial court erred when it granted the defendant's motion to dismiss the case pursuant to LSA-C.C. art. 876.

La. Ch. C. art. 876 provides:

For good cause, the court may dismiss a petition on its own motion, on the motion of the child, or on motion of the petitioner. The court shall dismiss a petition on the motion of the district attorney.

The Juvenile Court is vested with broad discretion to arrive at solutions which balance the needs of the child with the interests of society. State In Interest of Davis, 96-0337 (La.App. 4 Cir. 10/30/96), 683 So.2d 879. Although neither the Children's Code nor jurisprudence defines the term "good cause", in State In Interest of Davis this Court found dismissal of a delinquency petition appropriate after the victim refused to press charges.

In the present case, the trial court dismissed the case when the State informed the trial court that it did not know whether the juvenile was alive or deceased. The juvenile had been a passenger in a stolen vehicle and was

seriously injured in a vehicular accident while trying to elude the police in a high speed chase. The juvenile had been in a coma from the date of the incident, 28 June 2001. In granting the motion to dismiss, the trial court stated:

The incident in which [S.B.] was charged stems back all the way to July 2, 2001. It's the Court's understanding that [S.B.] sustained some very critical injuries in the car accident; and was unconscious for, at least, four months. Since, at least, August – from August 21, 2001, the State has been given time to determine whether or not they were going to go forward with these charges, and to make the determination as to whether the defendant is available to proceed in trial. And as of today's date, December 4<sup>th</sup>, the State has not made that determination and based on that, the Court is going to dismiss this case pursuant to Article 876.

At the hearing on 4 December 2001, the prosecutor noted that the State had been informed in October of 2001 by Charity Hospital employees that the juvenile was still in a coma. However, the prosecutor had recently been informed that the juvenile was no longer a patient at Charity Hospital but had not been able to determine whether the juvenile was alive or deceased. The prosecutor stated that his office had attempted to locate the juvenile to no avail. The prosecutor indicated that if the juvenile was alive, the State intended to proceed with the charges.

Thus, the trial court was in error when it stated that the State had not indicated its desire to proceed with charges against the juvenile. The prosecutor specifically stated at the hearing that if the juvenile was alive, the

State would prosecute the juvenile. Further, the State's filing of the petition and an amended petition to declare the juvenile a delinquent evidences an intent of the State to prosecute the juvenile.

However, there was good cause for the trial court to dismiss the case. The State failed to produce any evidence that the juvenile was alive. The juvenile was seriously injured in a vehicular collision that occurred after a high speed chase on 28 June 2001, following which the juvenile was in a coma from the date of the incident to, at least, October of 2001 when the State last received information on the juvenile's status. Under these facts, the State failed to meet its burden to show that the trial court did not have good cause to dismiss the case.

Accordingly, the trial court's judgment dismissing the case is  
**AFFIRMED.**

**AFFIRMED.**

