

FILED

APR 16 2010

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

BRENDA A. UMSTATTD  
CLERK CIRCUIT COURT  
COLE COUNTY, MISSOURI

STATE OF MISSOURI, )  
Plaintiff )  
v. )  
ALYSSA D BUSTAMANTE, )  
Defendant )  
)

Cause No. 09AC-CR03516-01F  
Division No. 4

**MOTION TO ALLOW ALYSSA TO COMPLETE HIGH SCHOOL**

ALYSSA BUSTAMANTE moves for an opportunity to complete her high school education and, in support of this motion, states as follows:

1. Alyssa is held on a warrant with no bond, in the control and custody of the Cole County Sheriff.
2. When Alyssa was first taken into custody, she was fifteen years of age and a student enrolled in the 10th grade at Jefferson City High School. Alyssa's sixteenth birthday was on January 18, 2010.
3. Every Missouri child is entitled to a free public education. Missouri Constitution, Art. IX, §1(a). *Washington v. Ladue School District Board of Education*, 564 F. Supp. 2d 1054, 1058 (E.D. Mo 2008),
4. Though Alyssa was certified to face the present charge as an adult, she is still a child. See, *State ex rel. Simmons v. Roper*, 112 S.W.3d 397 (Mo. banc 2003), §311.325 RSMo (minimum drinking age set at 21), §115.123 RSMo (minimum voting age set at

18), §431.061 RSMo (minimum age for consenting to surgical procedure set at 18), §431.056 RSMo (minimum age for entering into certain contracts set at 16 or 17 only if the minor is homeless, self-supporting and the minor's parents have consented to the minor living independent of the parents), §431.060 RSMo (minimum age for being liable for a debt set at 18), §494.425 RSMo (minimum age for serving on a jury set at 21), §474.310 RSMo (minimum age for making a will set at 18), §451.090 RSMo (minimum age for issuance of a marriage license set at 18, except with parental consent).

In *Stanford v. Kentucky*, 492 U.S. 361 (1989), the Court noted that "In these and a host of other ways, minors are treated differently from adults in our laws, which reflects the simple truth derived from communal experience that juveniles as a class have not the level of maturation and responsibility that we presume in adults and consider desirable for full participation in the rights and duties of modern life." *Id.* at 395.

5. The Cole County Sheriff is responsible for Alyssa. In *Smook v. Minnehaha County*, 457 F.3d 806, 812 (8th Cir. 2006), the Court noted the "State's legitimate responsibility to act in loco parentis with respect to juveniles in lawful state custody."

6. The Cole County Sheriff, having the charge, control and custody of Alyssa, is responsible for enrolling Alyssa in a program of academic instruction which complies with Missouri's Compulsory Attendance Law §167.031 RSMo. Even the child's expulsion from school does not relieve the sheriff of his responsibilities to Alyssa's education under Missouri's Compulsory Attendance Law. §167.164.1 RSMo.

7. Alyssa wishes to complete her high school education and she is entitled to

receive a high school education. Alyssa has not been convicted of any crime and is presumed innocent. A mere accusation of committing a felony offense does not cause her to forfeit her entitlement to an education.

THEREFORE, Alyssa Bustamante requests that this Court enter orders necessary to compel the Cole County Sheriff to provide the opportunity and resources for Alyssa to continue her high school education and that the Cole County Sheriff be specifically ordered to (1) allow Alyssa's enrollment in MU High School through the University of Missouri Center for Distance and Independent Study or comparable independent study high school educational program, (2) pay the costs of tuition, books and required material for Alyssa's high school diploma education program, (3) allow Alyssa unrestricted access and use of her school books and educational materials and (4) provide a suitable location for testing by examination proctors

Respectfully submitted,



Donald Catlett, Mo Bar No. 29556



Charles Moreland, Mo Bar No. 32040

Attorneys for Defendant

1000 W. Nifong, Building 7, Suite 100

Columbia, MO 65203

Phone 573-882-9855

Fax 573-884-4921

### Certificate of Service

I certify that a true copy of the above and foregoing was served on all parties by regular US Mail, postage prepaid, to their address of record, all on this 14th day of April, 2010.



Charles Moreland