

FLORIDA LAW WEEKLY SEX CRIMES EDITION BY DENNIS NICEWANDER

Vol. 32, No. 39, September 28, 2007

State v. Grayson, 965 So.2d 334 (5th DCA 2007):

Competing statutes governing child abuse reporting and abuse investigations, respectively encouraging persons to report by protecting accusers' anonymity on the one hand but ensuring thorough investigations on the other, was resolved in deference to the latter as to afford investigators discretion to disclose information necessary for an adequate investigation; and thus, that DCF investigator disclosed factual allegations of defendant's abuse report while discussing matter with mother, thereby disclosing defendant's identity without mentioning her name, did not constitute unlawful disclosure of defendant's identity as to warrant dismissal of information alleging false child abuse report.

Discussion: A similar situation was addressed in *State v. White*, 867 So.2d 594 (Fla. 2d DCA 2004), which held that the trial court could dismiss false reporting charges against a defendant when the investigating law enforcement officer played the hotline tape to the alleged child abuser for the purpose of identifying who made the call. The *Grayson* opinion distinguishes the two cases. It is important to note that the confidentiality of the hotline call is eliminated if DCF conducts their own investigation and determines the allegation to be false.

Pressley v. State, 32 Fla. L. Weekly D2850 (5th DCA 2007): *on rehearing*

13-year-old victim's statements to her mother were not admissible under the excited utterance exception to the hearsay rule, in prosecution for lewd or lascivious molestation; approximately 45-60 minutes passed between the alleged molestation and when victim told her mother about the incident, and thus victim had time to reflect before making the statements.

Williams v. State, 966 So.2d 985 (Fla. 2d DCA 2007):

Remand was required to delete any reference to the Jessica Lunsford Act in defendant's sentencing documents, after defendant was sentenced following a probation violation, where the Sexual Predators Act took effect after defendant's convictions, and therefore defendant could not be designated as a sexual predator, and the Jessica Lunsford Act only applied to someone who was designated as a sexual predator.