

13-1352 OHIO V. CLARK

DECISION BELOW: 999 N.E.2d 592

LOWER COURT CASE NUMBER: 2012-0215

QUESTION PRESENTED:

In all fifty States, certain individuals-most often, teachers, social workers, and medical professionals-have a mandatory duty to report suspected child abuse that they notice in the course of their work. In this case, the Ohio Supreme Court held both that this mandatory-reporting duty turned daycare teachers into "agents of the state for law-enforcement purposes" and that a child's out-of-court statements to the teachers qualified as "testimonial" under the Confrontation Clause. It did so even though there was no police involvement in the encounter between the teachers and child. Several other state supreme courts, by contrast, have rejected arguments that these mandatory-reporting statutes turn an individual subject to them into "law enforcement," and have held instead that a child's statements to the individual were non-testimonial and thus not subject to the Confrontation Clause.

The two questions presented are:

1. Does an individual's obligation to report suspected child abuse make that individual an agent of law enforcement for purposes of the Confrontation Clause?
2. Do a child's out-of-court statements to a teacher in response to the teacher's concerns about potential child abuse qualify as "testimonial" statements subject to the Confrontation Clause?

CERT. GRANTED 10/2/2014