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BIOLOGICAL MOTHER CAN'T BE KIDNAPPER, COURT SAYS

The Associated Press Staff Writers John Allard and Margaret O'Shea contributed to this report.

A Missouri woman accused of taking her children at gunpoint from a South Carolina couple who adopted them can't be charged under federal kidnapping law, an appeals court ruled Wednesday.

In a 2-1 decision, the 4th U.S. Circuit Court of Appeals decided the law doesn't apply to biological parents, even if they have lost parental rights.

It upheld the dismissal of kidnapping charges against Grace Ann Sheek of Dixon, Mo. She remains in jail in South Carolina on state charges stemming from the August 1991 abduction, federal prosecutor Bill Day said. Sheek's husband and two friends who were charged with helping her take the children and rob the adoptive couple have pleaded guilty to federal charges or have been convicted, Day said.

The children, a girl now 10 and a boy now 8, have been returned to their adoptive parents in Sardis, which is near Florence, he said.

Legal experts in South Carolina said the decision would have little impact because such abductions rarely occur in the state. They also said it is a crime under state law for a biological parent to take their child from the home of someone who has custody of the child.

Columbia attorney **Jack B. Swerling**, who represented Sheek on appeal, said he does not expect the court's ruling to have a broad impact.

The opinion showed parental abduction does not merit the harsh punishment imposed under federal and state kidnapping laws, he said.

The ruling should not worry adoptive parents in South Carolina, **Swerling** said.

Even though a biological parent who kidnaps a child later adopted cannot be prosecuted for kidnapping, the state's family court code would provide for return of the child and prosecution of the noncustodial parent who took him, he said. It provides a maximum penalty of three years in prison.

In its decision, the appellate court agreed with U.S. District Judge Dennis W. Shedd, who said Congress didn't want parents to be charged with kidnapping their children.

Judge K.K. Hall dissented, saying the 1989 state court order terminating Sheek's parental rights "rendered her a legal stranger" to the children.

Sheek lost parental rights because of evidence that she and a previous husband physically abused and neglected the children, the opinion said.



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