

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

IN THE INTEREST OF: C.S., A JUVENILE	: No. 27 MAP 2013 : : Appeal from the Order of the Lehigh : County Court of Common Pleas, Juvenile
APPEAL OF: COMMONWEALTH OF PENNSYLVANIA	: Division, dated July 24, 2012, at No. CP- : 39-JV-0000447-2012.

**ORDER**

**PER CURIAM**

**DECIDED: January 23, 2014**

**AND NOW**, this 23<sup>rd</sup> day of January, 2014, the order of the court of common pleas is **REVERSED**, the delinquency petition is **REINSTATED**, and the case is **REMANDED** to the court of common pleas for resolution of any issues C.S. properly raised in her motion to dismiss. The court erred when it sua sponte raised a vagueness challenge to 18 Pa.C.S. § 6312 and declared the statute unconstitutional on that basis. See MacGregor v. Mediq, Inc., 576 A.2d 1123, 1128 (Pa. 1990) (determining it was improper for trial court to act as advocate and sua sponte raise defenses on behalf of a party). By failing to raise such a challenge in the trial court, C.S. waived the issue for purposes of appeal. See Commonwealth v. Klobuchir, 405 A.2d 881, 883-84 (Pa. 1979) (holding that issues, even of constitutional dimension, cannot be raised for the first time on appeal); see also Pa.R.A.P. 302(a). C.S.'s additional argument that we should address the constitutional issue now in the interest of judicial economy is meritless, because she cannot raise the issue on remand. See Pa.R.J.C.P. 346 ("Unless otherwise required in the interests of justice, all pre-adjudicatory requests for relief shall be included in one omnibus motion filed prior to the adjudicatory hearing.").

Mr. Justice Eakin and Madame Justice Todd join the order reversing and remanding the case, but express no opinion on matters of waiver.