

15-Year-Old Soccer Star Granted Temporary Restraining Order on National Women's Soccer League Age Rule

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Soccer phenom, 15-year-old *Olivia Moultrie* has been granted a *Temporary Restraining Order (TRO)* in her challenge to the National Women's Soccer League's (NWSL) Age Rule. The league's Age Rule requires players to be at least 18 years old to compete for a position on a NWSL team. United States Court Judge Karin J. Immergut granted the TRO on May 24, 2021, after written and oral arguments. In her opinion, Judge Immergut wrote,

“Given the information in the record at this time, this Court finds that Plaintiff has shown that the law and facts clearly favor her position that the NWSL's Age Rule violates § 1 of the Sherman Act.”

Moultrie sued the NWSL on antitrust ground, arguing the league's Age Rule violates the Sherman Antitrust Act, 15 U.S.C. §1, because “the ten teams that make up the NWSL have agreed among themselves, and with the League, not to contract with soccer players under the age of 18, without regard to their talents or ability to compete in the League.” As the only option available to women to play professional soccer in the United States, she argued, the Age Rule serves no legitimate business justification or procompetitive purpose.

Judge Immergut's ruling effectively allows Moultrie to compete for a position on a NWSL team. The Judge agreed with Moultrie that the NWSL's Age Rule

“excludes female competitors from the only available professional soccer opportunity in the United States because they are under 18, regardless of talent, maturity, strength, and ability.”

She also found the NWSL failed to offer any “legitimate procompetitive justification for treating young women who want an opportunity to play professional soccer differently than young men.”

An injunction was necessary, Judge Immergut stated, because the NWSL's Age Rule irreversibly impedes Moultrie's development as a soccer player and each day the Age Rule stays in place "represents a missed opportunity for [Moultrie's] professional soccer career."

When she was 13, Moultrie was already practicing and scrimmaging with the Portland Thorns (a NWSL team) when she signed a nine-year endorsement deal with Nike in 2019. In support of Moultrie's Motion for a TRO, Portland Thorns' player Becky Sauerbrunn stated that keeping Moultrie out of the NWSL would slow her development, delay her improvement, and impede her finite career. The Judge also commented that, with the Olympic Games this summer, there would be additional NWSL roster spots open and Moultrie would "receive even more meaningful playing time if the Age Rule is lifted promptly."

Judge Immergut rejected the NWSL's "single-entity defense," that the NWSL is exempt from Section I of the Sherman Antitrust Act. She also rejected the argument that, if the Age Rule is lifted, NWSL's expenses will skyrocket because it will have to establish guidelines to account for the presence of minors. Even though Moultrie already utilizes the Thorns' locker room facilities and travels with the team to scrimmages, the NWSL did not offer any estimate of these expected increased expenses.

Importantly, the Judge emphasized that this decision does not lend itself to young players who want to challenge the age eligibility rules in the WNBA, MLB, NBA, NHL, and NFL, leagues that operate under collective bargaining agreements.

Unlike other professional leagues, the NWSL's Age Rule is not the result of a negotiated collective bargaining agreement between the NWSL and its players' association.

While the League argued that the age restriction should be exempt from anti-trust law scrutiny because the league has recognized the National Women's Soccer League's Players Association and commenced negotiations on the terms of a collective bargaining agreement, Judge Immergut held that the commencement of negotiations of a collective bargaining agreement is not the same as an Age Rule that is contained in an actual negotiated agreement. **Judge Immergut agreed with Moultrie and distinguished an age restriction that is negotiated and contained in an existing collective bargaining agreement from the league's self-imposed Age Rule which has not been bargained for between the parties.**

While the TRO is set to expire in 14 days (June 7), the Judge's ruling implies this injunction will last much longer and Moultrie will have an opportunity to finally compete in the NWSL.

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