

nal cases,<sup>1106</sup> but, because the standard was so widely accepted, it was only relatively recently that the Court had the opportunity to pronounce it guaranteed by due process. In 1970, the Court held in *In re Winship* that the Due Process Clauses of the Fifth and Fourteenth Amendments “[protect] the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.”<sup>1107</sup>

The standard is closely related to the presumption of innocence, which helps to ensure a defendant a fair trial,<sup>1108</sup> and requires that a jury consider a case solely on the evidence.<sup>1109</sup> “The reasonable doubt standard plays a vital role in the American scheme of criminal procedure. It is a prime instrument for reducing the risk of convictions resting on factual error. The standard provides concrete substance for the presumption of innocence—that bedrock ‘axiomatic and elementary’ principle whose ‘enforcement lies at the foundation of the administration of our criminal law.’”<sup>1110</sup>

The Court had long held that, under the Due Process Clause, it would set aside convictions that are supported by no evidence at

<sup>1106</sup> *Miles v. United States*, 103 U.S. 304, 312 (1881); *Davis v. United States*, 160 U.S. 469, 488 (1895); *Holt v. United States*, 218 U.S. 245, 253 (1910); *Speiser v. Randall*, 357 U.S. 513, 525–26 (1958).

<sup>1107</sup> *In re Winship*, 397 U.S. 358, 364 (1970). See *Estelle v. Williams*, 425 U.S. 501, 503 (1976); *Henderson v. Kibbe*, 431 U.S. 145, 153 (1977); *Ulster County Court v. Allen*, 442 U.S. 140, 156 (1979); *Sandstrom v. Montana*, 442 U.S. 510, 520–24 (1979). See also *Sullivan v. Louisiana*, 508 U.S. 275 (1993) (Sixth Amendment guarantee of trial by jury requires a jury verdict of guilty beyond a reasonable doubt). On the interrelationship of the reasonable doubt burden and defendant’s entitlement to a presumption of innocence, see *Taylor v. Kentucky*, 436 U.S. 478, 483–86 (1978), and *Kentucky v. Whorton*, 441 U.S. 786 (1979).

<sup>1108</sup> *E.g.*, *Deutch v. United States*, 367 U.S. 456, 471 (1961). See also *Cage v. Louisiana*, 498 U.S. 39 (1990) (per curiam) (jury instruction that explains “reasonable doubt” as doubt that would give rise to a “grave uncertainty,” as equivalent to a “substantial doubt,” and as requiring “a moral certainty,” suggests a higher degree of certainty than is required for acquittal, and therefore violates the Due Process Clause). But see *Victor v. Nebraska*, 511 U.S. 1 (1994) (considered as a whole, jury instructions that define “reasonable doubt” as requiring a “moral certainty” or as equivalent to “substantial doubt” did not violate due process because other clarifying language was included.)

<sup>1109</sup> *Holt v. United States*, 218 U.S. 245 (1910); *Agnew v. United States*, 165 U.S. 36 (1897). These cases overturned *Coffin v. United States*, 156 U.S. 432, 460 (1895), in which the Court held that the presumption of innocence was evidence from which the jury could find a reasonable doubt.

<sup>1110</sup> 397 U.S. at 363 (quoting *Coffin v. United States*, 156 U.S. 432, 453 (1895)). Justice Harlan’s *Winship* concurrence, *id.* at 368, proceeded on the basis that, because there is likelihood of error in any system of reconstructing past events, the error of convicting the innocent should be reduced to the greatest extent possible through the use of the reasonable doubt standard.