

Lesson 4

Tuesday 2/6/24

Section 1 of the 14th Amendment (Ratified July 9, 1868)

- Citizenship Clause: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside (overrules *Dred Scott v. Standford*, 1857).
- Privileges or Immunities Clause: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;
- Due Process Clause: No State shall deprive any person of life, liberty, or property without due process of law;
- Equal Protection Clause: Nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Supreme Court and Juvenile Justice Policy

- For purposes of this class, the U.S. Supreme Court's most important role is that of appellate adjudicator.
- Discretionary review - writ of *certiorari*.
- Until the 1960's, the U.S. Supreme Court did not make any significant rulings in the area of juvenile justice - "hands off" policy.
- As noted previously, however, by the 1960's, concern about whether kids were really receiving the treatment and services promised by the juvenile justice system was growing.

Kent v. United States (1966)

- The Court uses this case as a point of entry in setting constitutional guidelines for the handling of juveniles.
- Because the case arose in the District of Columbia (DC), it is a federal rather than a state case.
- It was originally heard in the Juvenile Court of DC and appealed to the U.S. Circuit Court of Appeals for the DC Circuit.
- The case is decided by a five-to-four margin.

Case Background

- Morris A. Kent, Jr. was 14 years old in 1959 when he first came under the authority of the DC Juvenile Court (DCJC) for several housebreakings and an attempted purse snatching.
- Original disposition: placed on probation in the custody of his mother who had been separated from her husband since Kent was 2 years old.
- While on probation, DCJC officials monitored Kent, interviewed him occasionally, and his records were maintained in his “social service” file.

More Problems for Kent

- On September 2, 1961, an intruder enters the apartment of a DC woman; the woman is raped and her wallet is stolen.
- Fingerprint analysis reveals a match between crime scene evidence and Morris Kent's fingerprint file.
- At about 3 pm on September 5, 1961, Kent - now age 16 - is taken into custody by the DC police. Under the applicable law, he was still under the exclusive jurisdiction of the juvenile court; he was also still on probation from the 1959 order.

Custody and Interrogation

- After questioning, Kent admitted his involvement in the rape and theft. He also volunteered information about other incidents of housebreaking, robbery, and rape. The interrogation lasted from 3:00 p.m. until about 10:00 p.m.
- Overnight, he was placed at the Receiving Home for Children and the next morning he was returned to police custody for further interrogation which lasted until about 5:00 p.m.
- It is not clear when Kent's mother became aware he was in custody. But shortly after 2:00 p.m. on September 6, 1961 (day 2 of interrogation), she retained counsel for him.

Counsel's Involvement

- Counsel and Kent's mother met with the Social Service Director of the DCJC.
- Counsel informed DCJC he intended to oppose any effort by the DCJC to waive Kent's jurisdiction to the DC Federal District Court.
- During Kent's nearly week-long period of confinement at the Receiving Home, there was no arraignment and no determination of probable cause.
- Also within this period, counsel arranged for a psychiatric evaluation of Kent. This evaluation concluded that Kent was "a victim of severe psychopathology."

Counsel's Motion to the DCJC

- DCJC should retain jurisdiction.
- Offer to prove that Kent would be a suitable candidate for rehabilitation if he were to:
 1. receive appropriate treatment in a hospital.
 2. remain under the jurisdiction of the DCJC.
- DCJC should provide access to the social service file which had been accumulating during Kent's probation.

Footnote #3

- Arraignment in front of a magistrate, a judicial determination of probable cause, and advice about rights are fundamental rights enjoyed by adult criminal defendants.
- DC Circuit Court of Appeals notes that children are generally exempt from criminal penalties. Consequently, the normal safeguards don't apply:

“There is no duty to take him before a magistrate, and no responsibility to inform him of his rights. He is not booked. The statutory intent is to establish a non-punitive, non-criminal atmosphere.”

DCJC Judge's Ruling

No hearing, no findings, and no rationale for his decision - only the decision itself:

“after full investigation, I do hereby waive jurisdiction of petitioner [Kent] and direct that he be held for trial for [the alleged] offenses under the regular procedure of the U.S. District Court for the District of Columbia.”

What the Judge Did Not Do...

- Describe what he meant by the term “full investigation.”
- State any findings of fact.
- Provide a reason for waiving jurisdiction.
- Respond to the motion made by Kent’s counsel.

What Does the DC Juvenile Court Act Say About This?

“If a child sixteen years of age or older is charged with an offense which would amount to a felony in the case of an adult or any child charged with an offense which if committed by an adult is punishable by death or life imprisonment, the judge may, after full investigation, waive jurisdiction and order such child held for trial under the regular procedure of the court which would have jurisdiction of such offense if committed by an adult.”

Subsequent Legal Steps

- Kent appealed the waiver to the Municipal Court of Appeals which affirmed the DCJC judge's decision.
- He petitioned the U.S. District Court for a writ of *habeas corpus* which was denied.
- On 9/25/1961, Kent was indicted on eight felony counts (housebreaking (3), robbery (3), and rape (2)).
- Case pended while Kent appealed to the U.S. Court of Appeals for the DC Circuit.

Court of Appeals and Federal District Court Rulings

- On 1/22/1963, the U.S. Court of Appeals held that the proper procedure for airing Kent's complaint was to file a motion to dismiss the indictment in the federal District Court.
- District Court denied the motion to dismiss. Rationale: it would not "go behind" the juvenile court judge's statement that the original waiver order was issued "after full investigation."
- Furthermore... the District Court judge held that under the law, a full investigation does not require "a quasi judicial or judicial hearing. No hearing is required."

Further Action in District Court

- Kent's counsel motioned for a hearing on Kent's competence to stand trial. On 3/7/1963, the District Court ruled that Kent was competent (Footnote #8 discusses the basis for that decision).
- Kent's defense at trial was that "his unlawful act was the product of mental disease or mental defect."
- Jury returned a verdict of "not guilty by reason of insanity" on the two rape counts. On the remaining six counts, the jury returned a "guilty" verdict.

Sentencing and Appeal

- On the rape counts, DC law required that Kent be “transferred to St. Elizabeth’s Hospital, a mental institution, until his sanity is restored.”
- Sentenced to serve 5 to 15 years on each of the remaining 6 counts - a total of 30 to 90 years in prison.
- Appeal of verdict to U.S. Court of Appeals; that court affirmed the verdict in 1964.
- Appeal to U.S. Supreme Court; writ of *certiorari* granted in 1965 and case was argued in early 1966.

Kent's Procedural Claims

- Procedural claims: no determination of probable cause; unlawful interrogation (no counsel or parent present); untimely parental notification, etc., etc.
- At the bottom of page 551, the Court expresses concern about these procedural issues; they actually raise the so-called “offsetting benefit” question...

The Question of “Offsetting Benefit”

“They also suggest basic issues as to the justifiability of affording a juvenile less protection than is accorded to adults suspected of criminal offenses, particularly where, as here, there is an absence of any indication that the denial of rights available to adults was offset, mitigated, or explained by action of the Government, as *parens patriae*, evidencing the special solicitude commanded by the Juvenile Court Act.” (pp. 551-552).