

# *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).



# The Key Procedural Error - Jurisdiction Waiver

- Even though the Court is concerned about the procedural issues raised above, it does not address any of those issues.
- Instead, it focuses on the more fundamental issue of whether the waiver of jurisdiction was valid.
- What is the concern about the waiver?

# Counsel's Argument For Invalidating the Waiver

- No hearing was held.
- No findings of fact were made by the juvenile court.
- Juvenile court provided no reason for the waiver.
- Counsel was denied access to Social Services file which presumably was among the evidence considered by the Juvenile Court before its waiver decision.

# Assumptions Behind the Supreme Court's Response

- Considerable latitude is necessary for the juvenile court to function properly. Complete latitude is not.
- Proceedings must meet “basic requirements of due process and fairness” and they must comply “with the statutory requirement of a ‘full investigation.’”
- Juvenile court has discretion but this is not “a license for arbitrary procedure.”

# Further Commentary by the Court

- Juvenile court acted in “total disregard of a motion for hearing filed by counsel.”
- The juvenile court made its decision “without any hearing or statement or reasons.”
- And, the stakes are high: “the child will be taken from the Receiving Home for Children and transferred to jail along with adults and that he will be exposed to the possibility of a death sentence instead of treatment for a maximum, in Kent’s case of five years, until he is 21.”
- The Court continues: “there is no place in our system of law for reaching a result of such tremendous consequence without ceremony - without hearing, without effective assistance of counsel, without a statement of reasons.”

# Supreme Court Holding (p. 554)

An explicit comparison of adult and juvenile processes:

- “It is inconceivable that a court of justice would proceed in this manner.”
- “It would be extraordinary if society’s special concern for children, as reflected in the DCJC Act, permitted this procedure.”
- “We hold that it does not.”

# The Court's Argument

- Rationale #1: Juvenile Court's role as a social welfare agent is not a license to practice arbitrary procedure (p. 554).
- Rationale #2: The Juvenile Court's *parens patriae* role does not provide an absolute justification for minimizing or ignoring due process rules for kids (p. 555).
- Rationale #3: More was required than was done here (pp. 556-557).

# What was Kent entitled to? (p. 557)

- A hearing.
- Access to the Social Services file and any other relevant notes or reports that are considered by the Juvenile Court.
- A statement of reasons or findings justifying the Juvenile Court's decision.
- Controlling constitutional principles of due process (5th Amendment) and assistance of counsel (6th Amendment).

# The Court Stops Short

- The Court had a number of options at its disposal.
- The justices in the majority are clearly skeptical about the “actual practice” of the American juvenile justice system.
- But they don’t seem to be ready to say that juveniles should receive the same treatment as adults either: “We do not mean to indicate that the hearing to be held must conform with all of the requirements of a criminal trial or even of the usual administrative hearing; but we do hold that the hearing must measure up to the essentials of due process and fair treatment” (p. 562).
- The Court is implicitly embracing a “middle-ground” position. We will see more of this in the Gault decision the following year.



## So, What's the Remedy? (pp. 564-565)

- Kent is already older than 21. His case can't be sent back to juvenile court.
- Kent wants the Court to vacate his Federal District Court convictions and to dismiss all indictments.
- The Court declines to do this. Instead, it orders a new hearing on whether the waiver decision was “inappropriate.” If it is, then Kent's convictions must be vacated.
- If the order is found to have been appropriate then the District Court can impose a new sentence.

# Latent Function of Kent Decision

- Repeatedly, the Court expresses its views about problems with the way Kent's case was handled.
- The Court also notes that the DCJC is not unusual in any way.
- The Court confines its ruling in Kent to the issue of waiver.
- The language of the Kent ruling sends a signal to the legal community that the Court is ready to take on the issue of juvenile justice more broadly.