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Juvenile Courts - Proper Quantum Of Proof In Juvenile Hearings. In re Samuel Winship, 90 S. Ct. 1068 (1970)

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can be demonstrated by the defendant, however, the decision will stand as a reflection of the currently prevailing application of the demand-waiver rule.

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Juvenile Courts—PROPER QUANTUM OF PROOF IN JUVENILE HEARINGS. *In re Samuel Winship*, 90 S. Ct. 1068 (1970).

The appellant was found to be a delinquent child[1] in juvenile court proceedings, and was placed in a training school. The child's commitment was upheld by the Court of Appeals of New York,[2] and an appeal was taken to the Supreme Court of the United States. The appellant urged that his commitment be reversed on the ground that his right of due process was violated by the New York statute which allowed a declaration of delinquency to be supported by a preponderance of the evidence,[3] rather than by proof beyond a reasonable doubt. The Supreme Court, in reversing, extended the meaning of due process in juvenile proceedings involving a violation of criminal law by requiring that the alleged act be proved beyond a reasonable doubt.[4]

The juvenile court system as it exists in most states today is regarded as a vehicle for the rehabilitation of delinquent youths rather than as a means of punishment.[5] The proceedings are of a non-criminal nature,[6] and therefore many of those rights which would be guaranteed the juvenile if he were tried in a criminal court for the same offense have

1. "'Juvenile Delinquent' means a person over seven and less than sixteen years of age who does any act which, if done by an adult, would constitute a crime." N.Y. JUDICIARY—FAMILY COURT ACT § 712(a) (McKinney 1963).

2. W. v. Family Court, 24 N.Y.2d 196, 247 N.E.2d 253, 299 N.Y.S.2d 414 (1969).

3. "Any determination at the conclusion of an adjudicatory hearing that a respondent did an act or acts must be based on a preponderance of the evidence." N.Y. JUDICIARY—FAMILY COURT ACT § 744(b) (McKinney 1963).

4. *In re* Samuel Winship, 90 S. Ct. 1068 (1970).

5. "As originally conceived, the juvenile court was to be a clinic not a court; the judge and all of the attendants were visualized as white-coated experts there to supervise, enlighten and cure—not to punish." DeBacker v. Brainard, 90 S. Ct. 163, 167 (1969) (Douglas, J., dissenting). *See In re* Poulin, 100 N.H. 458, 129 A.2d 672 (1957); *In re* Rich, 125 Vt. 373, 216 A.2d 266 (1966); ILL. ANN. STAT. ch. 37, § 701-2 (Smith-Hurd Supp. 1970).

6. Most state statutes establishing juvenile court systems provide that the proceedings are to be non-criminal in nature. *E.g.*, FLA. STAT. ANN. § 39.10(3) (1961); GA. CODE ANN. § 24-2418 (1959); MINN. STAT. ANN. § 260.21 (1959); N.M. STAT. ANN. § 13-8-65 (1953).

been denied him.[7] Foremost among these rights is the requirement of proof beyond a reasonable doubt to support a determination of guilt.[8]

The Supreme Court's involvement in the area of due process in juvenile hearings has been limited.[9] In *Kent v. United States*,[10] the Court held that juveniles are entitled to due process in those proceedings which may result in their institutionalization on grounds of alleged misconduct which, if committed by an adult, would be criminal in nature. *In re Gault*[11] reaffirmed the necessity of due process, and expressly included four rights which were considered to be essential to due process.[12] In both opinions, however, the Court stated that it was not requiring that juvenile proceedings conform to all due process requirements of a criminal proceeding.[13]

The opinions of the Supreme Court indicate that it has long been assumed that the Constitution requires a criminal charge to be proved beyond a reasonable doubt.[14] The instant case explicitly extends this requirement to juvenile delinquency proceedings.[15] *Gault*, therefore, now includes the reasonable doubt standard as many had predicted it eventually would.[16]

In a concurring opinion, Justice Harlan noted that the *Winship* decision will

> not (1) interfere with the worthy goal of rehabilitating the juvenile, (2) make any significant difference in the extent to which a

7. *See* Antieau, *Constitutional Rights in Juvenile Courts*, 46 CORNELL L. REV. 387 (1961).

8. Only two states, Illinois and Maryland, have statutory provisions which require proof beyond a reasonable doubt in juvenile hearings. ILL. ANN. STAT. ch. 37, § 701-4 (Smith-Hurd Supp. 1970); MD. ANN. CODE art. 26, § 70-18(a) (Supp. 1969).

9. Some observers feel that the Court has already gone too far and has destroyed the most valuable element of the juvenile system, lack of procedural strictness. *In re* Samuel Winship, 90 S. Ct. 1068, 1078-79 (Burger, C.J., dissenting).

10. 383 U.S. 541 (1966).

11. 387 U.S. 1 (1966).

12. The rights which were held to be essential to due process in *Gault* were: proper notice, *id.* at 33; right to counsel, *id.* at 41; privilege against self-incrimination, *id.* at 55; and the right to confrontation and cross-examination of witnesses, *id.* at 56.

13. *Id.* at 30; 383 U.S. at 562.

14. Speiser v. Randall, 357 U.S. 513, 525-26 (1958); Holland v. United States, 348 U.S. 121, 138 (1954); Leland v. Oregon, 343 U.S. 790, 795 (1952); Brinegar v. United States, 338 U.S. 160, 174 (1949); Davis v. United States, 160 U.S. 469, 488 (1895); Miles v. United States, 103 U.S. 304, 312 (1880).

15. 90 S. Ct. at 1075.

16. *See, e.g.*, Ketcham, *Guidelines from Gault: Revolutionary Requirements and Reappraisal*, 53 VA. L. REV. 1700 (1967).

> youth is stigmatized as a "criminal" because he has been found to be a delinquent, or (3) burden the juvenile courts with a procedural requirement which will make juvenile adjudications significantly more time consuming or rigid.[17]

The cautious manner in which the Court is proceeding into the area of juvenile rights at hearings indicates that it recognizes the beneficial aspects of the present juvenile court system as well as its need for improvement. The Court seems determined to preserve those aspects of the juvenile hearing which it considers necessary for rehabilitation while at the same time providing the safeguards of criminal procedure which it considers essential to due process.

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Products Liability—BREACH OF WARRANTY—DANGER INVITES RESCUE. *Guarino v. Mine Safety Appliance Co.*, 25 N.Y.2d 460, 255 N.E.2d 173, 306 N.Y.S.2d 942 (1969).

Plaintiffs in this case were employees, and the survivors of employees of the New York City Bureau of Sewage Disposal who had been injured or killed in an unsuccessful attempt to rescue John J. Rooney[1] from a sewer tunnel filled with lethal hydrogen sulfide gas. Rooney was suffocating and in need of aid because of a defect in the gas mask he was wearing in the tunnel.[2] The mask had been manufactured by the defendant.

The rescuers or their survivors sought damages for wrongful death and personal injuries. The trial court found the manufacturer liable; the Appellate Division[3] and Court of Appeals of New York affirmed.[4] The Court of Appeals held the manufacturer liable to the rescuers under

17. 90 S. Ct. at 1078.

1. Rooney's estate recovered in a previous action for wrongful death. Rooney v. S. A. Healy Co., 20 N.Y.2d 42, 228 N.E.2d 383, 281 N.Y.S.2d 321 (1967).

2. Rooney was wearing a used mask. *Id.* at 46, 228 N.E.2d at 386, 281 N.Y.S.2d at 325. *See* Kaufman v. Katz, 356 Mich. 354, 97 N.W.2d 56 (1959); UNIFORM COMMERCIAL CODE § 2-314, Comment 3. *Contra*, Holley v. Central Auto Parts, 347 S.W.2d 341 (Tex. Civ. App. 1961) (the court held that the doctrine of implied warranty does not extend to used goods).

3. Guarino v. Mine Safety Appliances Co., 31 App. Div. 2d 255, 297 N.Y.S.2d 639 (1969).

4. Guarino v. Mine Safety Appliance Co., 25 N.Y.2d 460, 255 N.E.2d 173, 306 N.Y.S.2d 942 (1969) (the actions of all the rescuers were consolidated).