Volume 72 | Issue 3 Article 14

April 1970

Juvenile Courts--Insanity Defense No Bar to Adjudication to Delinquency

George William Lavender III
West Virginia University College of Law

a reserve for bad debts when there is a transfer under section 351 or a liquidation under section 337 of the Internal Revenue Code of 1954. The Supreme Court has granted certiorari in the *Nash* case. Until there is a final decision, however, any taxpayer contemplating a transfer or liquidation must exercise caution in transferring a reserve for bad debts.

Philip Douglas Mooney

Juvenile Courts — Insanity Defense No Bar To Adjudication of Delinquency

The bodies of two young girls were found in a wooded area where they had been beaten to death with blunt objects. The next day, H. C., a fifteen-year-old juvenile, was apprehended and charged with delinquency for the killing of the two girls. The factual evidence taken at the original hearing, including an admission by H. C., made it clear that H. C. had killed the girls in the woods, returned home, and acted so naturally throughout the evening that his parents noticed nothing unusual. Testimony at the hearing from three psychiatrists, one called by the prosecutor and two by the defense, established that H. C. suffered from schizophrenia, and the unanimous conclusion was that he was neither capable of controlling his actions nor of appreciating the consequences. After an additional ninety-day psychiatric observation which yielded the same conclusions and brought a recommendation of phychiatric care, the hearing continued on the matter of delinquency in the Juvenile and Domestic Relations Court, Morris County, New Jersey. *Held, inter alia,* that proof of the defense of insanity under the *M'Naghten* rule did not bar an adjudication of delinquency with respect to a minor, even though he suffered from such disease of the mind as would be a complete defense to criminal charges against an adult. The juvenile was adjudicated delinquent and sent to a state mental hospital, with the court expressly retaining jurisdiction on the matter of discharge. *In re State In Interest of H. C.,* 106 N.J. Super. 583, 256 A.2d 322 (Juv. & D.R. Ct. 1969).

The basic issue before the court was whether there could and should be an adjudication of delinquency in view of the psychiatric testimony and evaluation which concluded that the juvenile, H. C.,

was insane.[1] In resolving this issue in the affirmative, the court stressed the absolute necessity of the adjudication of delinquency to give it power to invoke the state machinery for rehabilitation,[2] and distinguished between an adjudication of delinquency and a criminal conviction.[3] Even though the defense of insanity was not allowed to bar an adjudication of delinquency, the court specifically provided that H. C. was not subject to penal sanctions for his act.[4]

Although the defense urged that an adjudication of delinquency was barred by *In re Gault*,[5] the New Jersey court was not swayed by this argument. The Court said that when the fact of the offense has been established, the defense of insanity does not involve one of "those areas of constitutional concern over individual rights" with which the recent decisions concern themselves.[6]

Defense counsel for H. C. also relied upon a Wisconsin case, *In re Winburn*,[7] in which insanity *was* held to be a defense to an

[1] *In re* State In Interest of H.C., 106 N.J., Super. 583, 590, 256 A.2d 322, 325 (Juv. & D.R. Ct. 1969). The court said that the psychiatric evidence supported the contention of the defense that the child was insane under the *M'Naghten* rule, and that he would have a complete defense were he an adult charged with a criminal offense.

[2] The court said that adjudication by the juvenile courts is the "touchstone" of the juvenile process, which allows the court to use its *parens patriae* role to help the child. The adjudication "triggers" the juvenile court's use of its power to protect, and its statutory power to provide for treatment and rehabilitation. To allow the juvenile to use insanity as a defense to an adjudication of delinquency successfully would "handcuff the court, run contrary to the basic theory of juvenile proceedings, and not be in the best interest of the juvenile himself." *Id.* at 594, 256 A.2d at 328.

[3] *Id.* at 594, 256 A.2d at 327. The court distinguished between an adjudication of delinquency and an adult criminal conviction by saying that the former brings only rehabilitative processes into play, while the criminal conviction is attended by deterrent and punitive aspects in addition to rehabilitation.

[4] "A juvenile who has been adjudicated delinquent based upon an antisocial act committed while insane under the *M'Naghten* rule cannot be subjected to penal sanctions." *Id.* at 596, 256 A.2d at 329.

[5] *In re* Gault, 387 U.S. 1 (1967), held that a juvenile before a juvenile court must be accorded certain rights, although it is not a criminal proceeding. The protections enumerated were: notice of charges, right to counsel; right to confrontation; right to cross-examination; and right against self-incrimination. The New Jersey court recognized these principles as being applicable to juvenile proceedings to insure that fair treatment was accorded to juvenile offenders, but insisted that *Gault* should not be applied to hamper juvenile courts in exercising their *parens patriae* role of providing protection and rehabilitation. Thus, the court felt that as long as the exercise of the broad juvenile court discretion did not offend established standards of fair treatment, there was no room for objection to the manner of achieving a result in the best interests of the juvenile offender.

[6] *In re* State In Interest of H. C., 106 N.J. Super. 583, 593, 256 A.2d 322, 327 (Juv. & D.R. Ct. 1969).

[7] 32 Wis. 2d 152, 145 N.W.2d 178 (1966).

adjudication of delinquency. The Wisconsin court based its decision mainly on the theory that failure to allow a defense of insanity would offend the principles of fair treatment for juveniles.[8] The New Jersey court considered the *Winburn* rationale but concluded that it was not applicable to proceedings in the New Jersey court. The New Jersey court observed that the best interests of the juvenile were served because an adjudication of delinquency would lead to treatment and rehabiliation.[9] In discussing the *Winburn* case, the court also questioned the validity of the *Winburn* theory that the social stigma attached to the term "juvenile delinquent" was more harmful to a juvenile than a label of "insane."[10]

Although the New Jersey and the Wisconsin courts reached contrary conclusions on the question of whether insanity should be a defense to an adjudication of delinquency, both courts recognized that the juvenile process embodies a protective or *parens patriae* philosophy.[11] This was demonstrated by the identical disposition of the juveniles in both cases.[12]

There is no West Virginia case dealing with the question of whether or not a defense of insanity would bar an adjudication of delinquency in a juvenile court. Furthermore, juveniles are not always given the protection of the juvenile court process in West Virginia. By statute, juvenile courts in this state have exclusive jurisdiction over persons under sixteen, *except those committing capital*

---

[8] *Id.* at 164, 145 N.W.2d at 184. The Wisconsin court observed that the dispute concerning correct application of the insanity defense revolved around the question of fairness to the defendant. It concluded that to allow this defense only to adult offenders and not to juveniles would be inconsistent with standards of due process and fair treatment. The court intimated that to deny a defense of insanity to bar an adjudication of delinquency would also be inconsistent with the philosophy of the juvenile court process.

[9] *In re* State In Interest of H.C., 106 N.J. Super. 583, 591-93, 256 A.2d 322, 326-27 (Juv. & D.R. Ct. 1969).

[10] The New Jersey court noted the comment of the Wisconsin court that the term of "juvenile delinquent" is a " 'term of opprobrium and it is not society's accolade bestowed on the successfully rehabititated," but concluded that it was questionable whether the juvenile was less stigmatized by being found "insane" without an adjudication of delinquency. *Id.* at 596, 256 A.2d at 328 & n.6.

[11] For a discussion of the history of the *parens patriae* principle and its applicability in the juvenile process, see Note, *The Parens Patriae Theory and Its Effect on the Constitutional Limits of Juvenile Court Powers*, 27 U. PITT. L. REV. 894 (1965-66).

[12] Both the New Jersey court and the Wisconsin court ordered psychiatric care for the juveniles, and both courts retained jurisdiction on the matter of discharge once rehabilitation was achieved,

offenses.[13] For example, in a 1956 decision a fourteen-year-old boy was convicted of first degree murder and sentenced to the penitentiary at Moundsville. His defense of insanity under the M'Naghten rule failed.[14]

Additionally, there is no West Virginia case on the issue of whether or not an adjudication of delinquency is a prerequisite to committing a juvenile offender to an institution. Therefore, in order to determine how West Virginia might decide the question of whether or not an adjudication of delinquency is necessary before a juvenile court judge could fairly order a juvenile to be committed to an institution or other facility for care, in the face of what would amount to a successful defense of insanity in an adult criminal proceeding, interpretation of the applicable statutes must suffice. One such statute provides that "[i]f any person *charged with* or convicted of crime be found, in the court before which he is charged or was convicted, to be mentally ill, and *if* such court shall order him to be confined in one of the State hospitals, he shall be received and confined in it."[15] The clear meaning of this statutory language is that a trial judge in a criminal case may order a mentally ill defendant to be committed for care without a conviction or an acquittal by reason of insanity. Logically, the same principle might apply to the juvenile process, but it is not clear that it does.[16] West Virginia does prohibit confinement of a juvenile in the normal manner in the Industrial School for Boys if the child is of unsound mind, imbecilic, or idiotic.[17] But the

[13] *See* State v. Boles, 147 W. Va. 674, 130 S.E.2d 192 (1963); 50 W. VA. OPS. ATTY. GEN. 257 (1963).

[14] State v. Williams, No. F-27 (Intermediate Court, Ohio County, Apr. 5, 1956). This decision was discussed in Silverstein, *Psychology, Mental Illness, and the Law,* 60 W. VA. L. REV. 133, 161 (1957), where the author pointed out that "[i]f the law had permitted the case to be tried by the juvenile court, a medically oriented decision might have betn acceptable to the community . . . ."

[15] W. VA. CODE ch. 27, art 6, § 7 (Michie 1966) (emphasis added).

[16] Some confusion results from the rendering of an Attorney Generals opinion that a juvenile court judge may commit a child *convicted of a crime* to a mental institution. 45 W. VA. OPS. ATTY. GEN. 378 (1953). This is especially confusing since juvenile proceedings are not intended to be criminal. See State *ex rel.* Hinkle v. Skeen, 138 W. Va. 116, 124, 75 S.E.2d 223, 227 (1953), where the court observed:

> The juvenile statutes do not attempt . . . to bestow upon juvenile courts any criminal jurisdiction. The trial of a juvenile for deliquency is in no sense a criminal trial. Such a trial is in fact for the purpose of relieving a juvenile of acriminal trial, at least in most cases . . . . The juvenile court is not empowered to sentence a juvenile for the commission of a crime.

[17] W. VA. CODE ch. 28, art 1, § 2 (b) (Michie 1966).

pertinent juvenile statute does not make it clear at what point the court may act to make an appropriate disposition.[18] There are at least three possible interpretations of this statute as to when one of the enumerated dispositions may be made. First, the court could, when the question of sanity is raised, order a hearing on that question, before any hearing on the matter of delinquency, and in an appropriate case could order care without any further proceedings and without an adjudication of delinquency. This was the procedure followed in the Wisconsin case, in accordance with the statutes of that state.[19] The language of the West Virginia juvenile statute would be subject to a similar interpretation if this juvenile statute were supplemented by the provision for disposition of adult offenders found to be mentally ill.[20] Second, the court could order commitment or care after the juvenile proceedings, but before an adjudication of delinquency, where the evidence adduced during the juvenile proceedings demonstrated that the juvenile was mentally ill under the legal test of insanity. The West Virginia juvenile statute standing alone is subject to such an interpretation. Third, the West Virginia juvenile statute concerned with disposition could also be interpreted in a manner similar to the interpretation which the New Jersey court placed upon its statute,[21] by requiring that

[18] "With a view to the welfare of the child and of the State, the court or judge may, *after the proctedings,* make any of the following dispositions . . . ." W. VA. CODE ch. 49, art. 5, § 14 (Michie 1966) (emphasis added). The course to be followed regarding the necessity of adjudication before disposition presumably depends upon the interpretation given to the phrase given emphasis in the statute.

[19] WIS. STAT. § 48.14(3) (1955) provides: "If a child is before the court, alleged to be delinquent, and it appears that the child may be mentally deficient or mentally ill, the court may order a hearing to determine whether the child is mentally deficient or mentally ill . . . . WIS. STAT. § 48.24 reads as follows: "The court may order any person coming within its jurisdiction to be examined by a clinical psychologist . . . appointed by the court, in order that the condition of such person may be given due consideration in the disposition of the case . . . .".

On the basis of these statutory provisions, the Wisconsin court held the hearing on the juvenile's mental condition, and thereafter ordered treatment for him without further juvenile proceedings and without an adjudication of delinquency.

[20] W. VA. CODE ch. 49, art 5, § 14 (Michie 1966); W. VA. CODE ch. 27, art 6, § 7 (Michie 1966).

[21] N.J.S.A. 2A:4-37 (b) (1946) provides: "The juvenile and domestic relations court on *proper cause shown* may . . . [c]ommit the child (1) to a public institution established for the care, custody, instruction and reform of juvenile *offenders* . . . ." (emphasis added).

The New Jersey court interpreted this statute to require an adjudication of delinquency, even though the statute did not specifically mention it as a prerequisite to the authority to make such disposition. *In re* State In Interest of H. C., 106 N.J. Super. 583, 594, 256 A.2d 322. 327 & n.4 (Juv. & D.R. Ct. 1919).

there *must* be an adjudication of delinquency before the court can order treatment leading to rehabilitation for the juvenile.[22]

In adopting any one of these statutory interpretations, the West Virginia courts should be mindful of the standards of fair treatment considered by the New Jersey and Wisconsin courts. This, however, should pose no problem, for West Virginia, like New Jersey and Wisconsin, recognizes the underlying principles of the juvenile court process:" [J]uvenile courts are not for punishment but are instrumentalities for determining needs as to training and guidance for the child's better physical, mental and moral development."[23]

While it is important that the juvenile process be utilized to further the principles of care, guidance, treatment, and rehabilitation—those things which are in the best interest of the juvenile—it is equally important that juveniles not be denied due process and fair treatment by an unwarranted, overextended use of the statutory discretion given to the juvenile courts. An interpretation of the West Virginia statute[24] will settle the question, if and when the issue is raised.

George William Lavender, III

Pleading — Real Subrogee is Not a Real Party In Interest

In a diversity action in a federal court for damages resulting from an automobile collision, the defendant moved that the plaintiff's insurance carrier be joined as a party plaintiff. This motion was made under Federal Rule of Civil Procedure 19, on the grounds that the insurance carrier had paid plaintiff under his deductible collision policy and was, therefore, subrogated to its insured's rights to that extent. This, it was contended, made the insurance carrier a real party in interest under Federal Rule of

[22] The phrase in W. VA. CODE ch. 49, art. 5, § 14 (Michie 1966), "after the proceedings" could easily be taken to mean, under a strict interpretation, that the hearing must be completed and an adjudication of deliquency entered before the court has the power to make one of the dispositions provided for in that section.

[23] 57 W. VA. L. REV. 225, 226 (1955).

[24] W. VA. CODE ch. 49, art. 5, § 14 (Michie 1966).