

igating evidence and that the state court's application of *Penry* to Mr. Tennard's case was unreasonable.

Dissent

In dissent, Justice Rehnquist argued that Mr. Tennard's IQ evidence was within the effective reach of the jury via the Texas "special issues" instructions. In separate dissents, Justices Scalia and Thomas reiterated their previously expressed views that unfettered sentencer discretion has no basis in the Constitution. Justices Rehnquist, Scalia, and Thomas would have affirmed the Fifth Circuit and denied a COA.

Discussion

This is the latest in a line of cases in which the Supreme Court continues to fashion and define its death penalty sentencing scheme.

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Juvenile Competence to Stand Trial

Alleged Juvenile Delinquents in Indiana Are Not Subject to the Adult Competency Statute

In *In Re K.G.*, 808 N.E.2d 631 (Ind. 2004), the state of Indiana appealed to the Supreme Court of Indiana to review a judgment from the Indiana Court of Appeals. The appeals court had affirmed a trial court judgment that determined that four alleged juvenile delinquents were subject to the adult competency statute.

Facts of the Case

Four alleged juvenile delinquents filed successful motions in Marion County Juvenile Court for psychiatric evaluations to determine their competence to stand trial. Each of the four was evaluated by men-

tal health professionals, and the trial court determined that the juveniles lacked the ability to understand the proceedings and to assist in their defenses, in accordance with the Indiana adult competency statute, Ind. Code § 31-32-1-1.

K.G. was a 12-year-old boy who was accused of sexual battery and received a diagnosis of "mild to moderate mental retardation and autism" by the evaluating psychiatrist, Dr. David Posey. D.G. was a 10-year-old boy who was accused of child molesting and received a diagnosis of mild mental retardation and symptoms of attention deficit hyperactivity disorder (ADHD). D.C.B. was an 11-year-old boy who was accused of arson and received a diagnosis of mental retardation and a possible psychotic disorder. J.J.S. was a 13-year-old girl who was accused of burglary and theft and found to be "moderately to mildly mentally handicapped and functionally illiterate" by the evaluating psychologist, Dr. Paul Aleksic.

The four juveniles were initially placed in residential treatment centers. In March 2002, the trial court ordered that the juveniles be committed to the division of mental health for confinement in appropriate state psychiatric institutions.

The state of Indiana, through the mental health division of the Family and Social Services Administration, requested the trial court to vacate its order. The trial court would not vacate its order, although the court acknowledged that the division of mental health "[did] not currently have available appropriate facilities or programs" for the defendants. The state appealed to the Indiana Court of Appeals, which affirmed the judgment of the trial court.

Ruling

The Supreme Court of Indiana reversed the judgment of the trial court. The justices opined that juveniles were not subject to the adult competency statute, and the cases were remanded for further proceedings.

Reasoning

The appeals court had ruled that (1) juveniles have a constitutional right to have their competency determined before they are subjected to delinquency proceedings, and (2) because the juvenile code provides no procedure for determining the competency of children, the adult competency statute applies.

The Indiana Supreme Court agreed that a juvenile alleged to be delinquent has a constitutional right to

a competency assessment prior to delinquency proceedings. The court referred to the landmark case, *In re Gault*, 387 U.S. 1 (1967), in noting that, “Neither the Fourteenth Amendment nor the Bill of Rights is for adults alone.” The court wrote, “A juvenile charged with delinquency is entitled to have the court apply those common law jurisprudential principles which experience and reason have shown are necessary to give the accused the essence of a fair trial.”

The Indiana Supreme Court rejected the appeals court’s view that the juvenile code provides no procedure for determining the competency of children. The court acknowledged that Ind. Code § 31-32-1-1 provides, “If a child is alleged to be a delinquent child, the procedures governing criminal trials apply in all matters not covered by the juvenile law.” However, the court reasoned that the juvenile code “must be liberally construed” to “ensure that children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation” (Ind. Code § 31-10-2-1(5)).

Ind. Code § 31-32-12-1 provides that “the [juvenile] court may also order medical examinations and treatment of the child under any circumstances otherwise permitted in this section.” The supreme court concluded that this provision in the juvenile code allows for competency evaluations of children without the specific guidelines set forth for adult competency evaluations. Therefore, the adult competency statute does not apply to children.

Discussion

The Indiana Supreme Court reviewed the history of the juvenile court system, with focus on the *parens patriae* doctrine allowing the court to function in a parental role. The court wrote that *parens patriae* “gives juvenile courts power to further the best interests of the child, which implies a broad discretion unknown in the adult criminal court system.”

The United States Supreme Court decided a number of cases in the 1960s and 1970s that broadened juveniles’ constitutional rights and thereby limited the discretion of juvenile courts. However, the Court has affirmed that the states have “a *parens patriae* interest in preserving and promoting the welfare of the child” (*Santosky v. Kramer*, 455 U.S. 745 (1982)).

Although there was no formal equal protection argument before the Indiana Supreme Court, the

court nonetheless compared the rights of juveniles adjudicated delinquent to those alleged to be delinquent. If a child alleged to be delinquent were subject to adult competency law, then the child could be placed in a state psychiatric institution hundreds of miles away from his or her family. The justices noted that in most cases in which a juvenile is found to be delinquent, “the trial court is prohibited from placing the child in a facility outside the child’s county of residence.” Also, juvenile delinquents should be given dispositions, “in the least restrictive (most family like) and most appropriate setting available . . . consistent with the best interest and special needs of the child.” The justices wrote, “In our view no less is required for a juvenile only alleged to be delinquent.”

Finally, it should be noted that the Indiana Supreme Court did not set any new guidelines for juvenile competency evaluations. Rather, they found that the adult guidelines did not apply to children and emphasized the broad discretion of the juvenile courts to create dispositions in the best interest of the child.

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Undue Influence

Standards Revised for Rebutting Undue Influence in a Will Contest

In *Jackson v. Schrader*, 676 N.W.2d 599 (Iowa 2003), daughters Janice Schrader and Kathleen Jackson both appealed the ruling of the lower court regarding the estate of their deceased mother. At issue was whether their mother’s 1992 will, as well as monies and gifts transmitted from the mother to one daughter during the last years of the mother’s life, were the product of undue influence of the daughter on their mother.

The Supreme Court of Iowa held that the rule for rebutting the presumption of undue influence arising from a confidential relationship only requires that the grantee of the transaction prove by clear, satisfactory, and convincing evidence that the grantee acted in good faith throughout the transaction and the grantor acted freely, intelligently, and voluntarily.