

Quotes from *Bible v. State*, 253 Ind. 373, at 380 and 389 2 54 N.E. 2d 319 (Ind. 1970)

Although Indiana's original Juvenile Code of 1903 granted trial by jury at the request of the juvenile [as did Acts 1941, [*380] [**322] ch. 233, § 13], the Indiana General Assembly enacted certain amendments in 1945, one of which contained a provision that expressly denied the right at juvenile hearings. That provision has continued in force in our statutes and has been set out above, § 9-3215, *supra*. It should be noted at this point that the denial of trial by jury for juveniles has been the rule rather than the exception throughout the rest of the United States, even where such denial is not, unlike Indiana, expressly contained in a statute. See cases cited in 100 A. L. R. 2d 1241.

Furthermore [***10] because our juvenile proceedings are considered civil in nature and not criminal, the statutory denial of the right to trial by jury has never been thought to violate the Indiana Constitution. [State ex rel. Gannon v. Lake Circuit Court \(1944\), 223 Ind. 375, 61 N. E. 2d 168.](#) [State ex rel. Johnson v. White Circuit Court \(1947\), 225 Ind. 602, 77 N. E. 2d 298.](#) In [Gannon, supra](#), this court held that [Article 1, Section 20 of the Indiana Constitution](#) applies only to civil actions triable by jury under the common law and consequently, creation of the juvenile courts is not unconstitutional on the ground that it does not provide for jury trial. Chief Justice Emmert in [Johnson, supra](#), notes that an act of juvenile delinquency is not a crime. "The proceedings, therefore, for such purposes, do not have the formalities that a criminal proceeding has, including the right to a jury trial."

The arguments contained in these cases have been of great benefit to us in arriving at our decision on this question, as were the oral arguments advanced by counsel before this court. However, after very careful consideration of the case law, our Juvenile Act and the guidelines formulated by the U. S. Supreme Court, we have reached the conclusion that a juvenile is not constitutionally entitled to a trial by jury at a delinquency hearing.

We believe that to institute the jury trial as a part of the juvenile court system would so formalize the procedures conducted therein as to destroy the very innovation brought about by our Juvenile Act. Should the jury system be imposed, the role of the juvenile judge would be reduced to that now exercised by his counterpart on the criminal court. We agree with the Superior Court of Pennsylvania that under our present systems, ^{HNB} the juvenile court judge is supposed to be more than just a trier of fact.

"He must seek to instill in the child a sense of value, impart a feeling of security and belonging, communicate the importance and dignity of being a member of society and, hopefully, in this manner, prevent the child from pursuing [*390] [***28] a criminal and antisocial career. A juvenile court judge must, in a unique manner, establish a relationship that will permanently alter the behavior patterns of the child. He must have patience, understanding, and a genuine interest in the welfare of the child and must direct all of his efforts toward rehabilitation." [Commonwealth v. Johnson, supra, 234 A. 2d at 17.](#)

The judge presently is carrying out this dual role in discharging his responsibilities under the procedural due process requirements announced in *Gault* and summarized above, those guidelines being entirely consistent with the thrust of the Juvenile Act and a vital

improvement thereto.

However it is our firm conviction that questionable benefits accruing to a juvenile in having a delinquency proceeding heard by a jury would be far outweighed by the diminution of the power and influence exercised by the judge.

"A jury trial, with all the clash and clamor of the adversary system that necessarily goes with it, would certainly invest a juvenile proceeding with the appearance of a criminal trial, and create in the mind and memory of the child the same effect as if it were. In our opinion there is more [***29] to be lost than gained. Certainly we cannot regard a jury as a better, fairer, more accurate fact-finder than a competent and conscientious circuit judge. There may be some judges who do not fit this description, but neither do all juries." *Dryden v. Commonwealth, supra, 435 S. W. 2d at 461.*

Our reasoning herein is further buttressed, we believe, by the recommended changes set forth in the report of the President's Commission on Law Enforcement and Administration of Justice. Those recommendations do not include the institution of [**328] jury trial in juvenile proceedings. Of equal significance is the Commission's Task Force Report, *Juvenile Delinquency and Youth Crime* (1967), which approves the observation that

"A jury trial would inevitably bring a good deal more formality to the juvenile court without giving the youngster a [*391] demonstrably better factfinding process than trial before a judge."

In addition the Commission makes the following statement:

"Most states do not provide jury trial for juveniles. Even Illinois, New York, and California, which have recently revised their juvenile court laws to increase procedural [***30] safeguards for the child, have not extended the right to trial by jury. There is much to support the implicit judgment by these states that trial by jury is not crucial to a system of juvenile justice. *As this report has suggested, the standard should be what elements of procedural protection are essential for achieving justice for the child without unduly impairing the juvenile courts distinctive values.*" (our emphasis).

This court takes the position that the presence of a jury would interfere with the proper administration of the juvenile system without adding any appreciable protection to the rights of the juvenile. We believe that, among others, his rights to counsel, cross-examination of witnesses, confrontation of his accusers, and the privilege against self-incrimination, afford the juvenile the constitutional protection he requires without diminishing the beneficial elements intended for him by our Juvenile Act.

The case at bar strengthens our conviction that the uniqueness of the juvenile system should neither be emasculated nor destroyed. In this period of rapid social change and growing urban problems, the commission of crimes by juveniles is increasing at a [***31] staggering rate. The cases of the two boys before us are by no means unusual. The record reveals that appellant, Peter Bible, has already had eight delinquency hearings for acts he committed, which if committed by an adult, would have been punishable as crimes. His series of offenses began when he was 11 years old. Similarly, appellant, John Phillip Grundy, has had six different delinquency hearings for the commission by him of a variety of serious acts, the first of which occurred when he was 12 years old. The [*392] orders of the Marion County Juvenile Court which resulted from the hearings in

this cause were, in our view, both compassionate and understanding. In spite of their respective histories of serious offenses, which undoubtedly resulted from their broken home and poor circumstances, appellants were given another chance to correct their ways. The record demonstrates unequivocally that these two boys received the best of "both worlds" referred to in *Kent*. Their delinquent behavior, like that of thousands of other juveniles, requires the patience and protection which only the juvenile system is designed to provide. These boys don't need a jury, they need rehabilitation.