IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CHARLES JEROME STOCKTON, ET AL., Plaintiffs, and UNITED STATES OF AMERICA, Plaintiff-Intervenor, vs. ALABAMA INDUSTRIAL SCHOOL FOR NEGRO CHILDREN, ET AL., Defendants.	CIVIL ACTION NO. 2834-N

UNITED STATES' PROPOSED CONCLUSIONS OF LAW

DUE PROCESS

1. This Court has jurisdiction of this action under Title 28, United States Code, Sections 1343 and 1345.

2. Since the commencement of the juvenile court process in the United States, the basic policy behind the various statutes enacted for the treatment of juveniles has been ". . . directed to their rehabilitation for useful citizenship through reformation and education, and not to their punishment, even when the offense underlying the adjudication of delinquency is of a kind which when committed by an older person would merit indictment, conviction, and punishment." Opinion of Judge (now Associate Justice of the Supreme Court) William Brennan in In re Lewis, 11 N.J. 217, 224, 94 A.2d 328, 331 (1953). See also, Application of Johnson, 178 F.Supp. 155 (D. N.J. 1957); White v. Reid, 125 F.Supp. 647, 649 (D. D.C. 1954); Thomas v. United States, 121 F.2d 905 (D.C. Cir. 1941).

3. The statutory policy of juvenile rehabilitation is an outgrowth of the common law doctrine of parens patriae, the equitable notion that the State's intervention is justified when there is danger to the health and welfare of children. Under this doctrine, when a child's need for guidance and care is not met by parental attention, the state may undertake to provide for the child the kind of environment he should have been receiving at home. Application of Johnson, supra, 175 F.Supp. 155; Creek v. Stone,

379 F.2d 106 (D.C. Cir. 1967). See discussion in Kent v. United States, 383 U.S. 541 at 555-56 (1966), and In re Gault, 387 U.S. 1 at 16-17 (1967).

4. The legislature of the State of Alabama has incorporated a policy of delinquency rehabilitation into the enabling statute governing the training school at Mt. Meigs. The relevant statutory language states that "[t]he intent and purpose of the Alabama Industrial School for Negro Children is the reclamation of delinquent negro (sic) boys and girls in the State of Alabama." Code of Alabama, Title 52, Section 613(4) (recomp. 1958).

5. Juvenile proceedings in the State of Alabama do not result in the adjudication of guilt or innocence (as in criminal prosecutions), but conclude in a determination of delinquency or non-delinquency. Code of Alabama, Title 13, Sections 363 and 378 (recomp. 1953).

6. Juvenile courts in Alabama employ different procedures than those used in adult criminal trials. These procedures do not incorporate all the procedural guarantees constitutionally afforded to those accused of crime. See Code of Alabama, Title 13, Sections 353 and 354 (recomp. 1958).

7. In sustaining the constitutionality of juvenile court procedures which deprive an offender of certain procedural guarantees, ". . .the Courts have emphasized that the proceedings are non-criminal, but also that the institution to which the delinquent is committed is not of a penal character." White v. Reid, supra, 125 F.Supp. 647, 649.

8. When a state commits a delinquent child to an institution through a juvenile process which does not incorporate all the due process guarantees of an ordinary criminal trial, the state thereby assumes an affirmative duty under the due process clause of the Fourteenth Amendment to assign the delinquent to a rehabilitative institution, not a penal facility. See White v. Reid, supra, 125 F.Supp. at 649; United States ex rel Stinnett v. Hegstrom, 178 F.Supp. 17, 18 (D. Conn. 1959)

9. "The rehabilitative caretaking offered in exchange for constitutional protection must be substantive and real, not mere verbiage." In re Rich, 125 Vt. 373, 216 A.2d 266, 270 (1966). The situation of juveniles committed to Mt. Meigs is analogous to the condition of patients committed to mental institutions through non-criminal procedures and without the constitutional protections that are afforded

defendants in criminal proceedings. When persons who have not committed crimes are institutionalized by the state acting as parens patriae, these persons have a constitutional right to treatment or rehabilitation. If adequate treatment or care is not provided, the hospital or juvenile training school is transformed into a penal institution. Wyatt v. Stickney, C.A. No. 3195, Middle District of Alabama (March 12, 1971) Slip Opinion, pp. 4-5; See also, Rouse v. Cameron, 373 F.2d 451 (D.C. Cir. 1967); Covington v. Harris, 419 F.2d 617 (D.C. Cir. 1969); Ragsdale v. Overholser, 281 F.2d 943, 950 (D.C. Cir. 1960.) Whatever the reason for depriving a child of his liberty and institutionalizing him, due process of law must give him rights to effective treatment and education." Chester Antineau, I Modern Constitutional Law, Note 17 at page 476.

10. Although some of the features of penal institutions and juvenile rehabilitation facilities resemble each other, there are fundamental legal and practical differences in purpose and technique. "Unless the institution is one whose primary concern is the individual's moral and physical well-being, unless its facilities are intended for and adapted to guidance, care, education and training rather than punishment, unless its supervision is that of a guardian, not that of a prison guard or jailer, it seems clear a commitment to such institution is by reason of conviction of crime and connot withstand an assault for violation of fundamental Constitutional safeguards." White v. Reid, supra, (25 F.Supp. at 650).

CRUEL AND UNUSUAL PUNISHMENT

11. The Eighth Amendment's proscription against cruel and unusual punishment applies to state, as well as federal authorities. Robinson v. California, 370 U.S. 660 (1962). Article I, Section 15 of the Alabama Constitution recites the Eighth Amendment's language verbatim.

12. With respect to convicts, Alabama law provides that "[n]o cruel or excessive punishment shall be inflicted on any convict and no corporal punishment of any kind shall be inflicted except as it shall have been previously prescribed by the rules of the department and of which the convict shall have been notified, . . ." Code of Alabama, Title 45, Section 49 (recomp. 1958). A juvenile offender (who has not been afforded the procedural protection of the criminal process) is entitled to at least

the standard of punishment applicable to convicted criminals. See Chester Antineau, I Modern Constitutional Law, 475 (1969).

13. In determining whether conduct by officials constitutes cruel and unusual punishment, several tests are useful. "One such test is to ask whether under all the circumstances the punishment in question is 'of such character . . . as to shock general conscience or to be intolerable to fundamental fairness.'" Lee v. Tahash, 352 F.2d 970, 972 (8th Cir. 1965), quoted in Hancock v. Avery, 301 F.Supp. 786, 791 (M.D. Tenn. 1969). Such a judgment should be made in light of developing concepts of elemental decency. Weems v. United States, 217 U.S. 349, 370 (1910). Another test finds punishment to be cruel and unusual if it is unnecessarily cruel in view of its aim or purpose. Id. at 544. Jordan v. Fitzharris, 257 F.Supp. 674 (N.D. Calif. 1966). Further, standards for punishment should be flexible; that disproportion, both among punishments and between punishment and crime, is to be considered; and that broad and idealistic concepts of dignity, civilized standards, humanity and decency are useful and useable. Jackson v. Bishop, 404 F.2d 571, 579 (8th Cir. 1968).

14. The word punishment implies a wrong in institutional management, in contrast to the casual dereliction of a minor employee. "Thus, if in an Eighth Amendment case there were no conscious purpose to inflict suffering, . . ." it is necessary to "look next for a callous indifference to it at the management level, in the sustained, knowing maintenance of bad practices and customs." Roberts v. Williams, No. 28829, 5th Cir., April 1, 1971, Slip Opinion, p. 19.

Where an affirmative constitutional duty to provide rehabilitative program for juvenile offenders has been established, as at the Mt. Meigs school, a default in that responsibility brings the conduct of responsible officials within the scope of the Eighth Amendment.

15. When officials of a training school have condoned or permitted the frequent and indiscriminate use of corporal punishment against

juveniles committed to the school, without defined standards, they have demonstrated the callous indifference to children's safety which provides the basis of Eighth Amendment liability. Roberts v. Williams, supra, at p. 20.

Respectfully submitted,

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