

Excerpts from *McKeiver v. Pennsylvania* 403 U.S. 528 (1971)

These cases present the narrow but precise issue whether the Due Process Clause of the Fourteenth Amendment assures the right to trial by jury in the adjudicative phase of a state juvenile court delinquency proceeding.

Joseph McKeiver, then age 16, in May, 1968, was charged with robbery, larceny, and receiving stolen goods (felonies under Pennsylvania law ...) as acts of juvenile delinquency. At the time of the adjudication hearing, he was represented by counsel. His request for a jury trial was denied...

The right to an impartial jury "[i]n all criminal prosecutions" under federal law is guaranteed by the Sixth Amendment. Through the Fourteenth Amendment, that requirement has now been imposed upon the States "in all criminal cases which -- were they to be tried in a federal court -- would come within the Sixth Amendment's guarantee." This is because the Court has said it believes "that trial by jury in criminal cases is fundamental to the American scheme of justice."

This, of course, does not automatically provide the answer to the present jury trial issue, if for no other reason than that the juvenile court proceeding has not yet been held to be a "criminal prosecution" within the meaning and reach of the Sixth Amendment, and also has not yet been regarded as devoid of criminal aspects merely because it usually has been given the civil label.

Despite all these disappointments, all these failures [of the juvenile court to provide what it has promised], and all these shortcomings, we conclude that trial by jury in the juvenile court's adjudicative stage is not a constitutional requirement. We so conclude for a number of reasons:

1. The Court has refrained ... from taking the easy way with a flat holding that all rights constitutionally assured for the adult accused are to be imposed upon the state juvenile proceeding.
2. There is a possibility, at least, that the jury trial, if required as a matter of constitutional precept, will remake the juvenile proceeding into a fully adversary process and will put an effective end to what has been the idealistic prospect of an intimate, informal protective proceeding.
4. The Court specifically has recognized by dictum that a jury is not a necessary part even of every criminal process that is fair and equitable.
5. The imposition of the jury trial on the juvenile court system would not strengthen greatly, if at all, the fact finding function, and would, contrarily, provide an attrition of the juvenile court's assumed ability to function in a unique manner. It would not remedy the defects of the system.
8. There is, of course, nothing to prevent a juvenile court judge, in a particular case where he feels the need, or when the need is demonstrated, from using an advisory Jury.

If the formalities of the criminal adjudicative process are to be superimposed upon the juvenile court system, there is little need for its separate existence. Perhaps that ultimate disillusionment will come one day, but, for the moment, we are disinclined to give impetus to it.