

LINN COUNTY RULING ON JUVENILE AID AND ASSIST MOTIONS



Seven Linn County juvenile defense attorneys filed motions relating to their clients' abilities to aid and assist counsel in the preparation and conduct of their defense. The individual cases were heard together on the "generic issue of whether such a defense exists at all in a juvenile delinquency proceeding." Jody Meeker and Mark Taleff argued the matter on behalf of the youths and Brandon Kane of the Linn County District Attorney's Office argued the matter on behalf of the State.

Judge Pro Tem Carl H. Brumund, in a seven page letter opinion, analyzed constitutional case law including: *Dusky v. United States*, 362 US 402 (1960); *Drope v. Missouri*, 420 US 162 (1975); *Goingey v. Moran*, 509 US 389 (1993) – all addressing the due process right of a criminal defendant to be competent when he is tried. Judge Brumund went on to analyze federal and state Supreme Court rulings addressing due process requirements in juvenile delinquency cases, including: *Breed v. Jones*, 421 US 519 (1975) [double jeopardy applies]; *McKeiver v. Pennsylvania*, 403 US 578 (1971) [the fundamental fairness required in juvenile cases does not require jury trial], and *State v. Turner*, 253 Or 235 (1969) upheld in *State ex rel Juv. Dept. v. Reynolds*, 317 OR 560 (1993) [no state constitutional right to juvenile jury trial]. From his analysis, Judge Pro Tem Brumund concluded that ". . . it is clear the Due Process Clause of the 14th Amendment to the U.S. Constitution is applicable to juvenile court and its procedures. There must be fundamental fairness. It is also abundantly clear . . . that a person whose mental condition was such that the person 'lacked capacity to understand the nature and object of the proceedings against him, to consult with counsel and to assist in preparing his defense may not be subjected to trial' [citing *Drope*]"

The trial court then went on to address the issue of whether the provisions of ORS 161.360-161.370 are applicable to juvenile proceedings, discussing how in the analogous case of *State v. L.J.*, 26 Or App 461 (1976), where the appellate court found that the defense of mental disease or defect, as found in ORS 161.795, could be raised in a juvenile delinquency proceeding, although a strict reading of the juvenile code did not allow for the defense. Pro Tem Judge Brumund finds L.J. to be rooted in the principal of fundamental fairness central to the due process clause, and interprets L.J. to also apply to application of ORS 161.360-161.370 to a juvenile delinquency case. Thus, the trial court reasons, "[c]ase law, as well as ORS 161.360 and 161,365(1), make it a responsibility of the court to ascertain the capacity of the defendant (or youth, if in juvenile court) to aid and assist once that capacity is placed in doubt and to schedule a hearing to allow parties to present evidence on that issue." The trial court also concludes that the state may have the benefit of the procedure set out in the statute, if it determines to do so.

This link will take you to a full copy of the letter opinion.