



DISTRICT COURT OF KANSAS

TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

CHAMBERS OF:
BRENDA M. CAMERON
DISTRICT JUDGE
DIVISION NO. 13
(913) 715-3870

OFFICERS:
ELIZABETH NELSON
ADMINISTRATIVE ASSISTANT

JUVENILE JURY TRIALS

A. In the Matter of L.M., No. 96,197:

1. Kansas Supreme Court held that Juveniles have a constitutional right to jury trial.
2. Juvenile proceedings fit within meaning of "all prosecutions" set forth in Kansas Constitution.
3. This right applies to cases pending on direct review or not yet final. Not retroactive.
4. L.M. argued that sweeping changes to juvenile justice procedures in Kansas since 1984 merit renewed scrutiny under constitution. Supreme Court agreed.
5. Case reversed and remanded to District Court for new trial before jury.

B. What does this mean for us:

1. Need for procedures:
 - a. how many jurors
 - b. how many strikes
 - c. how to instruct jury
 - d. preliminary hearings required
 - e. does speedy trial apply
2. Need for resources:
 - a. judges
 - b. staff
 - c. clerks
 - d. court reporters
 - e. courtrooms
 - f. jurors
3. Concerns:
 - a. delays
 - b. need for quick intervention and services
 - c. have not fully realized impact
 - d. how to forecast financial impact and need



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JUVENILE RULE NO. 16

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All juveniles accused of an offense in Johnson County, Kansas shall be afforded the right to trial by jury pursuant to the methods in the Kansas Code of Criminal Procedure, K.S.A. 22-2201 *et. seq.*

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The Johnson County District Court shall grant to juvenile offenders the rights proscribed in K.S.A. 22-3403, Method of trial of felony cases, and K.S.A. 22-3404, Misdemeanor, cigarette or tobacco infraction and traffic cases; method of trial.

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The jurors shall be summonsed and selected in accordance with K.S.A. 22-3408 through K.S.A. 22-3413. The order and procedure of trial and deliberation of the jury shall be consistent with K.S.A. 22-3414 through K.S.A. 22-3423.

Nothing in this rule will be deemed to confer additional jurisdiction to the juvenile district court.

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JUDGE, DIV. 2



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The effect of the requirement for jury trial for juveniles remains largely unknown at this time. Our first response to the court's ruling was to get these cases set on a jury trial docket as soon as possible. In order to have access to the jury pool and courtroom space, they are currently being called on the adult criminal jury trial docket. The first cases set for trial are just now coming up on the docket and due to the short time frame, these are being continued to give defense counsel more time for discovery and preparation.

What we can project is that this requirement may have a significant effect. On my last week to handle the juvenile offender docket, I received four requests for jury trials. If that number continues, we can easily project 200 requests for jury trials on an annual basis. (4 request x 50 weeks) That would be a jury trial a week. That number could easily be much higher. Sedgwick County files around 1800 cases a year, including both felony and misdemeanor type cases. It was assumed that jury trials would only be requested in serious felony cases. The early requests show they are being made in both felony and comparatively minor misdemeanor cases.

In our system we have four attorneys on contract to do juvenile offender cases. Both money wise and time wise, they can not take up the additional burden of doing jury trials. Their daily dockets are comprised of around ten sentencings and three to four bench trials, pre-trials, etc. As a result, we are appointing attorneys from the adult criminal appointments list which is going to result in more costs to the state and the county.

In regard to court time, the legislature funded two new judges for Sedgwick County, one of whom is to be assigned to the juvenile department. Originally the new judge would have permitted us to speed up child in need of care cases and bring them conclusion quicker, thereby, meeting the best interests of the children and saving the state money. Now, this resource will be dedicated to doing jury trials.

As to facilities, we have a brand new building. It is free standing miles away from the main courthouse. We have a courtroom that is big enough for a jury trial but no room for jury assembly, deliberations, or the ability to feed a jury that is deliberating. Right now it is working fine due to available court space in the downtown courthouse due to a serious illness of one of our judges and we have a retired judge available to hear the

cases. In January, we will have neither. We have had to request the county to construct an addition to our brand new building. We will have room for jury trials and jury deliberations but we still have no direct access to the jury pool.

There are many issues that remain unresolved. Are juveniles entitled to a preliminary hearing? The Supreme Court did not say so and our constitution does not mandate one. It's a creature of statute. When you are dealing with juveniles 10 to 17 years of age, what's a jury of your peers? Truthfully, I am not sure a jury of adults will too sympathetic with a juvenile breaking car windshields or breaking into house. We haven't seen it yet but I wouldn't be surprised to see a case where the state takes the position that if they are going to do a jury trial they might as well seek adult prosecution.

The kids who have the most serious histories or who are the most dangerous to the community are being referred for adult prosecution and they get their jury trial. For the vast majority of juveniles, the system operates the way it was designed. Its community based with the objective of having a juvenile learn from their mistakes. The matrix that is part of the juvenile offender's code was designed to minimize the number of juveniles being placed a juvenile correctional facilities and even when a juvenile is placed at a juvenile correctional facility it is for much shorter period than adults committing similar offenses. Where the juvenile system has been most "criminalized" is in the area of criminal history and this has been done by the United States Supreme court.

An adult's criminal history affects their sentencing. The Supreme Court has ruled that if prior acts are to be utilized to enhance a current sentence, due process must have been afforded in regard to those prior acts. Juvenile acts can count as prior history. In order to meet the requirement for jury trials in juvenile cases to meet this due process requirement, there is a solution.

If the state seeks to have a juvenile case counted in terms of an adult criminal history, the juvenile must be afforded a jury trial. If it will not be counted, there is no need for a jury trial. The state must make a selection. In this way, juveniles' rights and needs can be served. In the vast majority of cases the court focuses on teaching and directing a juvenile toward more appropriate and beneficial behavior, thereby, meeting the needs of the juvenile. In those cases where more serious behavior and criminal history are significant are issues, the juvenile's rights could be protected.

In all events, it suggested that this issue be referred to the judicial council for in depth study. Protecting juvenile rights is obviously vital but so is having a system that helps direct their lives in a positive manner.