FILED
JAN 30 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF )
DONALD EUGENE BOLEN, JR., )
JUVENILE, )
Appellant. )

Filed January 30, 1981

0-375
3-65250

Appeal from Black Hawk District Court - Robert E. Mahan, Judge.

Juvenile appeals from adjudication of delinquency under chapter 232, The Code 1979, contending that he was denied a speedy trial and that the case against him should have been dismissed. AFFIRMED.

W. H. Gilliam of Rapp & Gilliam, Waterloo, for appellant.

Thomas J. Miller, Attorney General of Iowa, John G. Black, Special Assistant Attorney General, and Craig S. Brennei , Assistant Attorney General, for the State.

Heard by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

DONIELSON, J.

Donald Eugene Bolen, Jr., a juvenile, appeals from adjudication of delinquency under chapter 232, The Code 1979, contending that he was denied a speedy trial and that the case against him should have been dismissed. We affirm the delinquency adjudication.

I.

On January 9, 1980, a petition was filed alleging that Bolen, a juvenile, was delinquent by reason of committing fifth degree theft in violation of section 714.2(5), The Code 1979. Hearing was held on the matter before the juvenile court on April 15, 1980. At that time, the court entered an order finding Bolen guilty of the theft but providing that a delinquency adjudication would not be made until a dispositional hearing was held. The dispositional hearing took place on May 6 and 7, 1980, at which time Bolen was adjudicated delinquent and placed under the supervision of a juvenile probation officer.

Hearing on the petition was originally set for February 9, 1980, but for some reason was not held until the following April 15. At the beginning of the hearing, Bolen's counsel moved to dismiss the petition on speedy trial grounds because more than ninety days had passed since the filing of the petition. The motion was overruled and Bolen now brings this appeal.

We are presented in this case with the question of whether the speedy trial guarantees of Iowa R. Crim. P. 27(2)(b) (codified in chapter 813, The Code 1979) should apply to juvenile proceedings. Bolen contends that juvenile offenders are entitled to the same constitutional guarantees as adult offenders as a result of the U.S. Supreme Court's decision in In re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 L. Ed. 2d 527 (1967), and that therefore Rule 27(2)(b) should apply to juvenile proceedings as it does to criminal trials. We disagree.

We first note that Bolen has misread the Gault decision, in which the Supreme Court expressly rejected the idea that juvenile hearings must conform to all the constitutional requirements of criminal trial. Gault, 387 U.S. at 30, 87 S. Ct. at 1445, 18 L. Ed. 2d at 548. See also McKeiver v. Pennsylvania, 403 U.S. 528, 533-34, 91 S. Ct. 1976, 1980-81, 29 L. Ed. 2d 647, 654 (1971); In the Interest of Johnson, 257 N.W.2d 47, 49 (Iowa 1977). Moreover, in cases involving the right to speedy trial under the previous criminal code, the Iowa Supreme Court has held that the speedy trial provision, section 795.1,

The Code 1977, does not apply in juvenile proceedings. State v. McGhee, 280 N.W.2d 436, 438 (Iowa 1979); Edwards v. State, 249 N.W.2d 851, 854 (Iowa 1977); State v. White, 223 N.W.2d 173, 175-76 (Iowa 1974). Although today we are asked to determine the applicability of the speedy trial provision of the new criminal code, we find the reasoning in these cases very persuasive. As the court recognized in McGhee, proceedings before the juvenile court are not criminal prosecutions; they are instead special proceedings designed to serve the best interests of both the child and the State in preventing the recurrence of delinquent activity. McGhee, 280 N.W.2d at 438-39. See also Johnson, 257 N.W.2d at 48-49. Since an investigation into the particular circumstances of the child is necessary before an appropriate disposition can be made, a requirement that the adjudication hearing be held within 90 days of filing the delinquency petition would place unreasonable time restraints on juvenile authorities whose duty it is to carefully consider all information relevant to the question of delinquency. Cf. McGhee, 280 N.W.2d at 439 (applying speedy trial provision of previous criminal code to juvenile proceeding would place unreasonable time constraints on juvenile authorities and prosecutors in any eventual criminal trial). We therefore decline to apply the speedy trial provision of Rule 27(b)(2) to proceedings before the juvenile court and we affirm the adjudication of delinquency in the instant case.

AFFIRMED.