

Excerpts from *In re Winship* 397 U.S. 358 (1970)

During a 1967 adjudicatory hearing, conducted pursuant to § 742 of the Act, a judge in New York Family Court ... found that appellant, then a 12-year-old boy, had entered a locker and stolen \$112 from a woman's pocketbook. The petition which charged appellant with delinquency alleged that his act, "if done by an adult, would constitute the crime or crimes of Larceny." The judge acknowledged that the proof might not establish guilt beyond a reasonable doubt, but rejected appellant's contention that such proof was required by the Fourteenth Amendment. The judge relied instead on § 744(b) of the New York Family Court Act, which provides that

[a]ny determination at the conclusion of [an adjudicatory] hearing that a [juvenile] did an act or acts must be based on a preponderance of the evidence.

We turn to the question whether juveniles, like adults, are constitutionally entitled to proof beyond a reasonable doubt when they are charged with violation of a criminal law. The same considerations that demand extreme caution in factfinding to protect the innocent adult apply as well to the innocent child. We do not find convincing the contrary arguments of the New York Court of Appeals.

We conclude, as we concluded regarding the essential due process safeguards applied in *Gault*, that the observance of the standard of proof beyond a reasonable doubt "will not compel the States to abandon or displace any of the substantive benefits of the juvenile process." *Gault, supra*, at 21.

Finally, we reject the Court of Appeals' suggestion that there is, in any event, only a "tenuous difference" between the reasonable doubt and preponderance standards. The suggestion is singularly unpersuasive. In this very case, the trial judge's ability to distinguish between the two standards enabled him to make a finding of guilt that he conceded he might not have made under the standard of proof beyond a reasonable doubt.

In sum, the constitutional safeguard of proof beyond a reasonable doubt is as much required during the adjudicatory stage of a delinquency proceeding as are those constitutional safeguards applied in *Gault* -- notice of charges, right to counsel, the rights of confrontation and examination, and the privilege against self-incrimination. We therefore hold, in agreement with Chief Judge Fuld in dissent in the Court of Appeals,

that, where a 12-year-old child is charged with an act of stealing which renders him liable to confinement for as long as six years, then, as a matter of due process . . . the case against him must be proved beyond a reasonable doubt.

24 N.Y.2d at 207, 247 N.E.2d at 260.