

Excerpts from *Kent v. United States* 383 U.S. 541 (1966)

We agree with the Court of Appeals that the statute contemplates that the Juvenile Court should have considerable ... latitude within which to determine whether it should retain jurisdiction over a child or ... should waive jurisdiction. But this latitude is not complete. At the outset, it assumes procedural regularity sufficient in the particular circumstances to satisfy the basic requirements of due process and fairness, as well as compliance with the statutory requirement of a "full investigation." The statute gives the Juvenile Court a substantial degree of discretion as to the factual considerations to be evaluated, the weight to be given them, and the conclusion to be reached. It does not confer upon the Juvenile Court a license for arbitrary procedure. The statute does not permit the Juvenile Court to determine, in isolation and without the participation or any representation of the child, the "critically important" question whether a child will be deprived of the special protections and provisions of the Juvenile Court Act. It does not authorize the Juvenile Court, in total disregard of a motion for hearing filed by counsel, and without any hearing or statement or reasons, to decide -- as in this case -- that the child will be taken ... and transferred to jail along with adults, and that he will be exposed to the possibility of a death sentence, instead of treatment for a maximum, in Kent's case, of five years, until he is 21.

We do not consider whether, on the merits, Kent should have been transferred; but there is no place in our system of law for reaching a result of such tremendous consequences without ceremony -- without hearing, without effective assistance of counsel, without a statement of reasons. It is inconceivable that a court of justice dealing with adults with respect to a similar issue would proceed in this manner. It would be extraordinary if society's special concern for children, as reflected in the District of Columbia's Juvenile Court Act, permitted this procedure.

The net, therefore, is that petitioner -- then a boy of 16 -- was, by statute, entitled to certain procedures and benefits as a consequence of his statutory right to the "exclusive" jurisdiction of the Juvenile Court. In these circumstances, considering particularly that decision as to waiver of jurisdiction and transfer of the matter to the District Court was potentially as important to petitioner as the difference between five years' confinement and a death sentence, we conclude that, as a condition to a valid waiver order, petitioner is entitled to a hearing, including access by his counsel to the social records and probation or similar reports which presumably are considered by the court, and to a statement of reasons for the Juvenile Court's decision. We believe that this result is required by the statute, read in the context of constitutional principles relating to due process and the assistance of counsel.