Juvenile Law—Exclusive Original Jurisdiction of Juvenile Cases in Juvenile Courts

James O. Wilson Jr.
JUVENILE LAW — EXCLUSIVE ORIGINAL JURISDICTION OF JUVENILE CASES IN JUVENILE COURTS

In J.W.A. v. State, the Supreme Court of Georgia laid to rest a jurisdictional problem that had plagued the Georgia juvenile system for almost a half of a century when the court held that exclusive original jurisdiction of non-capital juvenile cases is vested in the juvenile courts with concurrent jurisdiction of the superior courts becoming effective only when activated by a proper transfer from the juvenile courts.

A petition was filed for an adjudicatory hearing in the Juvenile Court of White County. The petition alleged in part that the youth, 16 years of age, was delinquent and in need of treatment because of his participation with three adults in setting fire to a church located in White County.

The adjudicatory hearing was held before the superior court judge sitting as judge of the juvenile court. After the hearing, the case was transferred to the district attorney for presentation to the superior court. The youth was subsequently indicted by the grand jury for arson.

An appeal was taken to the court of appeals on the ground that the transfer was not a valid transfer under the law and therefore the superior court did not have jurisdiction over the case. The court of appeals, in upholding the action of the lower court, stated that it was bound by previous court decisions and held that the indictment by the grand jury operated to divest the juvenile court of further jurisdiction over the case, regardless of any deficiencies in the transfer.

For almost 20 years the Georgia General Assembly had been trying by statute to vest exclusive jurisdiction over juveniles in the juvenile courts. This the legislature had attempted despite a constitutional provision which explicitly conferred upon the superior courts "exclusive jurisdiction . . . in criminal cases where the offender is subjected to loss of life or

3. 233 Ga. at 686, 212 S.E.2d at 851.
10. The 1951 Juvenile Court Act was the first legislative attempt to confer "exclusive original" jurisdiction upon the juvenile courts. See Henritze, Annual Survey of Georgia Law: Juvenile Law and the Juvenile Court System, 24 MERCER L. REV. 187 (1973).
In the landmark decision of *Jackson v. Balkcom*, the Georgia Supreme Court stated:

Jurisdiction to try persons charged with felonies, who are accountable under the law, is fixed by the Constitution to be in the superior courts.

Should any of the provisions of the Juvenile Court Act of 1951 have been intended to withdraw the jurisdiction of the superior courts to try an offender within the age of accountability under the law, for an offense punishable by death or life imprisonment, such provisions would be unconstitutional and could be given no effect.

Undaunted by *Jackson*, the legislature attempted, in the 1971 Georgia Juvenile Code, to vest the juvenile courts with the same original and exclusive jurisdiction as that declared unconstitutional in the 1951 Act in *Jackson*. In again granting the same broad power to the juvenile courts, the legislature clearly evidenced its intent to set up an entirely separate judicial system for juveniles. Once again, however, the courts were constrained to point out that the Juvenile Code did not exist in a void, but had to exist within the bounds set by the Georgia Constitution and the Georgia Criminal Code. In *J.E. v. State*, the Georgia Supreme Court held that “[n]othing in the Juvenile Court Code or in the proceedings of a juvenile court can abrogate [the superior court’s jurisdiction].”

Finally, in 1972, the Georgia General Assembly initiated an amendment to the Georgia Constitution which provided that the jurisdiction of the superior courts over felony offenders was exclusive, “except in the case of juvenile offenders as provided by law.” With this authority, the legislature, in 1973, amended the Juvenile Court Code to state that “[t]he court shall have exclusive original jurisdiction over juvenile matters and shall be the sole court for initiating action . . . .”

---

13. Id. at 414-15, 80 S.E.2d at 320-21.
16. GA. CODE ANN. §26-701 (Rev. 1972) sets 13 as the minimum age at which a child can be held accountable for the commission of a crime.
18. Id. at 590, 194 S.E.2d at 289.
20. Id.
21. The 1972 Constitutional Amendment did not change the law as it existed at that time. In an opinion, the Georgia Attorney General stated that the amendment neither changed the juvenile courts’ jurisdiction nor revitalized the 1971 Juvenile Court Code. The amendment simply allowed the legislature to alter the existing jurisdictional alignment. Op. GA. ATT’Y GEN. No. 72-179 (1972).
22. Ga. Laws, 1973, p. 882, 883; GA. CODE ANN. §24A-301(a) (Supp. 1974). There is an exception in the case of capital felonies, in which the two courts still have concurrent jurisdic-
However, uncertainty still haunted the system, caused primarily by the decision of the Georgia Supreme Court in *Mathis v. State*. In that case, delinquent acts of aggravated assault and armed robbery were allegedly committed by Mathis and others. The case was transferred to the superior court pursuant to Ga. Code Ann. §24A-2501 (Supp. 1974). Deficiencies in compliance with that section were the grounds argued on appeal. The court in *Mathis*, relying on *Jackson* and *J.E. v. State*, restated the proposition that the superior court had constitutional jurisdiction to try a person accused of a felony if he had reached the age of criminal responsibility. Speaking through Justice Undercofler, the court pointed out that the 1972 constitutional amendment provided only that the superior court’s jurisdiction over juveniles was not exclusive.

The majority of the court of appeals in *J.W.A. v. State*, in light of the language used in *Mathis* and the date on which it was decided, gave the decision a liberal reading. In writing the opinion of the court in *J.W.A.*,
Judge Quillian remarked that,

[i]n construing the constitutional amendment, the Supreme Court (in Mathis) pointed out that such amendment “only provides that the jurisdiction of the superior courts . . . is not exclusive . . . .” The Act of 1973 . . . insofar as it might conflict with the 1972 Constitutional Amendment must yield to such paramount authority.30

From this it appears that the court of appeals was of the impression that the 1973 amendment to the juvenile code was not capable of giving the juvenile courts exclusive original jurisdiction over any type of case, capital or non-capital. Therefore, once the superior court accepted jurisdiction through the indictment, the juvenile court, which admittedly had had jurisdiction, was divested of any further authority over the case. This impression was certainly derived from the Mathis opinion.31

In J.W.A. v. State,32 the Georgia Supreme Court went directly to the heart of the controversy. Realizing that the case did not turn upon the validity of the transfer,33 Justice Ingram, writing for the court, stated the issue in the following manner: “Does an indictment of a juvenile for a noncapital felony in the superior court oust the juvenile court of its first obtained jurisdiction under the Georgia Constitution and statute law?”34 Although the supreme court recognized that the court of appeals had based its decision primarily on Mathis, in reversing the court of appeals, the court declined to overrule Mathis. Stating that in Mathis the court was dealing “with the contention that the superior court did not have jurisdiction to try the juvenile for the offenses charged against him,”35 the court explained the holding of Mathis as it applied to the 1973 amendment:

We did not hold in Mathis that, under the 1972 Constitutional Amendment and 1973 legislation implementing it, an indictment automatically ousts the previously acquired jurisdiction of a juvenile court. More importantly, we did not consider the 1973 legislation implementing the constitutional amendment because it was not briefed or argued in the case.36

The court stated that the true bill in Mathis was returned on December 18, 1972, and that therefore the case was correct under applicable law in...
existence at that time. Herein lies the possible cause of the court of appeals' confusion. At the time the indictment, or true bill, was handed down by the grand jury, neither the constitutional amendment nor the juvenile code amendment had become effective. However, before the case was heard and a decision rendered, the juvenile code had been effectively amended pursuant to the authority granted in the constitutional amendment. Therefore, although the court was required to take judicial notice of all statutory law, the law changing the juvenile code was not retroactive and as such could not be applied to the Mathis case at the time it was decided.

In reversing the court of appeals, the court completed at last the task of establishing two separate court systems — one for juveniles and one for adults. Although the 1972 Constitutional Amendment required statutory implementation, once that implementation was accomplished through the 1973 amendment to the juvenile code, exclusive original jurisdiction of non-capital cases was vested in the juvenile courts with the concurrent jurisdiction of the superior courts becoming effective only when activated by a valid transfer from the juvenile courts.

J.W.A. v. State provided the court with the opportunity to settle a jurisdictional problem with which "[o]ur court system has suffered too long . . . ." Although the decision entailed little more than reading the 1972 Constitutional Amendment in conjunction with the statutory amendment passed in 1973, it was necessary in view of the misconceptions the lower courts had acquired as a result of Mathis. As the court went to great length to point out in J.W.A., Mathis was correct under the law as it existed at that time. It is regrettable that the opinion in Mathis was such as to leave the lower courts in doubt as to the reasons for the holding in that case. J.W.A. v. State has clarified the Mathis ruling and the long dispute over this type of shared jurisdiction should now be at an end.

JAMES O. WILSON, JR.

37. Id.
38. See note 28, supra.
39. GA. CODE ANN. §38-112 (Rev. 1973) requires the courts to take judicial notice of "the laws of the United States and of the several States . . . ."
40. The two systems are not entirely separate in view of the exception concerning capital felonies where the two systems still share concurrent jurisdiction. See GA. CODE ANN. §24A-301(a) (Supp. 1974).
41. 233 Ga. at 686, 212 S.E.2d 851-52.
42. Id. at 687, 212 S.E.2d at 852.