

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Abbott A., a Juvenile v. Commonwealth

458 Mass. 24 (2010) · No. SJC-10663 · Decided September 20, 2010

SUMMARY

The Supreme Judicial Court of Massachusetts held that a dangerousness hearing under Massachusetts General Laws chapter 276, § 58A, may proceed when a juvenile has been found legally incompetent, subject to due process safeguards. The court further held that the Commonwealth may rely solely on sufficiently reliable hearsay, including police reports and videotaped statements, provided the evidence supports a finding of dangerousness by clear and convincing evidence. The court also concluded that incompetency-related delay is excluded from the ninety-day detention limit, although continued detention remains subject to constitutional due process limitations.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Gants, J.; Marshall, C.J.; Ireland, J.; Spina, J.; Cowin, J.; Cordy, J.; Botsford, J.
JURISDICTION	Massachusetts
DECIDED	September 20, 2010
DOCKET	SJC-10663
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The juvenile petitioned for relief under G. L. c. 211, § 3, from orders permitting a dangerousness hearing and continuing pretrial detention despite his incompetency to stand trial. A single justice reserved and reported three questions to the full Supreme Judicial Court.
STANDARD OF REVIEW	The court reviewed legal questions concerning due process, statutory interpretation, admissibility and reliability of hearsay at a dangerousness hearing, and the propriety of relief under the court's superintendence power.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Abbott A., a Juvenile v. Commonwealth

TOPICS

criminal procedure

bail

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PRACTICE AREAS

criminal procedure

juvenile law

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QUESTIONS PRESENTED

1. Whether a dangerousness hearing under G. L. c. 276, § 58A, may be conducted when a juvenile has been found incompetent to stand trial.
2. Whether the Commonwealth may satisfy its burden at a § 58A dangerousness hearing solely through hearsay evidence, including police reports and videotaped interrogations, without presenting live testimony.
3. Whether a juvenile detained after a § 58A dangerousness hearing may be held beyond the statutory ninety-day period while remaining incompetent to stand trial, subject to due process limitations.

HOLDINGS

1. It is not per se a violation of due process to conduct a G. L. c. 276, § 58A, dangerousness hearing for a juvenile who has been found incompetent to stand trial, provided appropriate safeguards permit a reliable determination of dangerousness.
2. The Commonwealth may satisfy its burden at a § 58A dangerousness hearing solely with hearsay evidence if the hearsay is substantially reliable or there is good cause for not presenting live testimony; the evidence in this case met that standard.
3. The ninety-day § 58A detention period excludes periods of delay caused by mental incompetency, but continued detention of an incompetent juvenile is constitutionally limited and requires findings concerning the likelihood of restoration, progress toward competency, and whether the detention has become unreasonable.

KEY QUOTATIONS

“For these reasons, we conclude that it is not a per se violation of due process to hold a hearing under § 58A to determine an incompetent person's dangerousness, regardless whether the person is an adult defendant or a juvenile.” (33-34)

“Unsubstantiated and unreliable hearsay cannot, consistent with due process, be the entire basis of a probation revocation.” (35)

“First, an incompetent defendant or juvenile may not be held in criminal custody awaiting trial “more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain [competency] in the foreseeable future.”” (37-38)

FACTUAL BACKGROUND

A fourteen-year-old juvenile was charged in connection with an alleged attack in which a sleeping man was severely beaten. The juvenile had previously been found incompetent to stand trial. At the dangerousness

hearing, the Commonwealth presented no live witnesses and relied on police reports and videotaped interrogations of codefendants and witnesses. The Juvenile Court found by clear and convincing evidence that the juvenile was dangerous and that no release condition would reasonably assure public safety, while also ruling that the ninety-day detention period was tolled during incompetency.

PROCEDURAL HISTORY

The juvenile was arraigned in Juvenile Court on delinquency charges and the Commonwealth sought pretrial detention based on dangerousness under G. L. c. 276, § 58A. The juvenile had previously been found incompetent to stand trial and moved to stay the dangerousness hearing; the Juvenile Court judge denied the motion. The dangerousness hearing proceeded without live witnesses, based on police reports and videotaped interrogations, and the judge ordered detention after finding dangerousness by clear and convincing evidence. The Supreme Judicial Court affirmed the orders permitting the hearing and detention but remanded for findings concerning competency, the likelihood and progress of restoration, and the reasonableness of the detention's duration.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for a hearing within thirty days of issuance of the rescript to determine whether the juvenile remained incompetent, whether there was a substantial probability that he would attain competency in the foreseeable future, whether he had made progress toward competency, and, if so, whether the duration of detention had become unreasonable. If detention continued, the court required a review hearing at least every ninety days addressing continued incompetency and whether due process required release.

CASES CITED

- Abbott A. v. Commonwealth, 455 Mass. 1005, 1006 (2009)
- Commonwealth v. Hill, 375 Mass. 50, 52 (1978)
- Dusky v. United States, 362 U.S. 402, 402 (1960)
- Commonwealth v. Robidoux, 450 Mass. 144, 152-153 (2007)
- Commonwealth v. L'Abbe, 421 Mass. 262, 266 (1995)
- Drope v. Missouri, 420 U.S. 162, 171 (1975)
- Jackson v. Indiana, 406 U.S. 715, 733, 738, 740-741 (1972)
- Commonwealth v. Torres, 441 Mass. 499, 502-507 (2004)
- United States v. Magassouba, 544 F.3d 387, 413, 416-417 (2d Cir. 2008)
- Cafeteria & Restaurant Workers Union, Local 473 v. McElroy, 367 U.S. 886, 895 (1961)
- Spence v. Gormley, 387 Mass. 258, 274 (1982)
- Mathews v. Eldridge, 424 U.S. 319, 334 (1976)
- Querubin v. Commonwealth, 440 Mass. 108, 115 n.6, 118, 120 n.9 (2003)

- Victor V. v. Commonwealth, 423 Mass. 793, 796-797 (1996)
- Commonwealth v. Nieves, 446 Mass. 583, 590-592 (2006)
- Commonwealth v. Burgess, 450 Mass. 366, 375 (2008)
- Commonwealth v. Hatch, 438 Mass. 618, 626 (2003)
- Commonwealth v. Russin, 420 Mass. 309, 316-317 (1995)
- Hinnant, petitioner, 424 Mass. 900, 907 (1997)
- Mendoza v. Commonwealth, 423 Mass. 771, 783, 785-786 (1996)
- Commonwealth v. Durling, 407 Mass. 108, 114-122 (1990)
- Commonwealth v. Wilcox, 446 Mass. 61, 67-70 (2006)
- Commonwealth v. Negron, 441 Mass. 685, 691 (2004)
- Commonwealth v. Maggio, 414 Mass. 193, 196, 199 n.3 (1993)
- Commonwealth v. Jones, 417 Mass. 661, 664 (1994)
- United States v. Salerno, 481 U.S. 739, 748 (1987)
- Foucha v. Louisiana, 504 U.S. 71, 79 (1992)
- Police Comm'r of Boston v. Municipal Court of the Dorchester Dist., 374 Mass. 640, 666 (1978)
- Schall v. Martin, 467 U.S. 253, 265, 270-271 (1984)