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The Right of an Indigent Juvenile in Ohio to a Transcript at State Expense

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THE RIGHT OF AN INDIGENT JUVENILE IN OHIO TO A TRANSCRIPT AT STATE EXPENSE

FOLLOWING THE United States Supreme Court's landmark decision in *In re Gault*,[1] juvenile court legislation underwent extensive revision throughout the United States. The State of Ohio was no exception, with its legislature making extensive revisions culminating in Ohio's new juvenile code[2] becoming effective on November 19, 1969.

However, like the court in *Gault*, the new juvenile code in Ohio failed to cope with a problem which appears to be moving toward litigation in the near future, that of the right of an indigent juvenile offender in Ohio to be provided with a transcript of the testimony and evidence presented at his juvenile hearing with the cost thereof to be charged to the state.

At this point, I would like to turn directly to an analysis of existing case law in Ohio and throughout the nation, as well as statutory language and its interpretation by Ohio courts of the right of an indigent juvenile to a free transcript.

It seems clear that the Ohio legislature intended to provide an indigent juvenile defendant with a sufficient record to prosecute an appeal from a final judgment of the juvenile court. In view of the necessity for an adequate record to effectively prosecute such an appeal in Ohio, the legislature has provided[3] that a record of the testimony and other oral proceedings be made and preserved for possible incorporation into a bill of exceptions in the case. When such notes have been made and preserved as provided by section 2301.20, then the furnishing of transcripts

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[1] *In re* Gault, 387 U.S. 1 (1967) [Hereinafter cited as Gault].

[2] Ohio House Bill No. 320 (1969).

[3] OHIO REV. CODE §2151.35 (1967): "A record of all testimony and other oral proceedings in Juvenile Court shall be made upon request *as provided in Section 2301.20 of the Revised Code.*" (Emphasis added). *See* OHIO REV. CODE §2301.20 (1953) which provides, in part, that:

> ... [The] shorthand reporter shall take accurate shorthand notes of the oral testimony or other oral proceedings, *which notes shall be filed in the office of the official shorthand reporter and carefully preserved.* (Emphasis added).

to the parties in the case is controlled by section 2301.23 of the Ohio Revised Code.[4]

Ohio law provides that the trial judge may, in the interest of justice, furnish a transcript of testimony to an indigent defendant in a *criminal case* and tax such as costs,[5] and further that such transcripts may be furnished to an indigent defendant in a felony case.[6] In Ohio criminal and civil cases, failure to provide the Court of Appeals with a transcript of the testimony and evidence or a bill of exceptions will prevent that court from reviewing the sufficiency of the evidence sustaining the judgment from which the appeal is taken. If an error relied on does not appear upon the record outside a bill of exceptions, such a bill is necessary in order for the reviewing court to be able to resolve the matter.[7]

As early as 1906, the Ohio Supreme Court, in the case of *Regan v. McHugh*,[8] recognized the necessity of filing a bill of exceptions in a civil case, when the alleged error is that the evidence is not sufficient to sustain the judgment from which the appeal is taken.[9]

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[4] OHIO REV. CODE §2301.23 (1953):
When shorthand notes have been taken in a case as provided in Section 2301.20 of the Revised Code... (if) either party to the suit, or his attorney, requests transcripts of any portion of such notes in longhand, the shorthand reporter reporting the case shall make full and accurate transcripts thereof for the use of such court or party... *such transcripts... shall remain on file with the papers of the case and shall be available to either party for incorporation in a bill of exceptions in the case.* (Emphasis added).

[5] OHIO REV. CODE §2301.24 (1953):
The compensation of shorthand reporters for making transcripts and copies as provided in Section 2301.23 of the Revised Code... such compensation shall be paid forthwith by the party for whose benefit a transcript is made.... The trial judge may... in the interest of justice, and where there are reasonable grounds for the request, order a transcript of the testimony of one or more witnesses on behalf of an indigent defendant in a criminal case, the expense of which shall be paid by the county treasury and taxed as costs. (Emphasis added).

[6] OHIO REV. CODE §2953.03 (1953):
The judge of the trial court in a *felony case* may, *because of the poverty of the defendant, in the interest of justice, order a bill of exceptions and transcript, or either, paid from the county treasury in the manner provided in Section 2301.24 of the Revised Code, and order the amount of money so paid charged as costs in the case.* (Emphasis added).

[7] OHIO REV. CODE §2321.05 (1953):
When an appeal is taken from a final order, judgment, or decree as defined by Section 2505.02 of the Revised Code and the appellant's assignment of error cannot be demonstrated on the face of the record as disclosed by the transcript of the docket or journal entries and the original papers filed in the appellate court... the appellant must prepare and file... a bill of exceptions. (Emphasis added).

[8] Regan v. McHugh, 78 Ohio St. 326, 85 N.E. 559 (1906).

[9] OHIO REV. CODE §2945.65 (1961):
If a defendant feels himself aggrieved by a decision of the court, he may present his bill of exceptions or objections thereto which the court shall sign... *and it shall be made part of the record and shall have like force and effect as in civil actions... (if) the exceptions being that the decision is not sustained by sufficient evidence or is contrary to law... such bill must contain all the evidence.* (Emphasis added).

The principle of providing an indigent defendant in a criminal case with a record sufficient to effectively prosecute an appeal without prepayment of costs thereof is well recognized in Ohio. In *State v. Frato*,[10] the defendant duly filed a notice of appeal from a judgment of the Court of Common Pleas finding her guilty of pandering and sentencing her to imprisonment in the Ohio Reformatory for Women. The defendant therein also filed a "motion for bill of exceptions to be taxed as costs" but which is actually a motion "for an order authorizing . . . the official court reporter . . . to prepare and file a transcript of testimony . . . the cost of same to be taxed as cost . . . pursuant to . . . [sections 2301.23, 2301.24, and 2301.25, Revised Code]."[11] The foregoing motion was overruled by the Court of Common Pleas and the defendant dismissed the appeal. The reason for dismissal of that appeal was the inability of the defendant, prior to the time of dismissal, to get a transcript of the evidence at the trial without advancing the money to pay for it. The necessity for such a transcript was indicated by the specification in the defendant's motion for a new trial, ". . . [t]hat the verdict [was] not sustained by sufficient evidence. . . ."[12] The defendant then requested leave to appeal to the Court of Appeals. This motion was overruled. The defendant then requested leave to appeal to the Supreme Court of Ohio. In allowing the defendant's motion for leave to appeal, the court said:

> *We find no ambiguity whatever in the language of Section 2301.24, Revised Code, . . . [a]s we view it, when shorthand notes have been taken, . . . as provided in Section 2301.20, Revised Code; Section 2301.24, Revised Code gives any defendant in a criminal case the right to have a full transcript of the evidence without first paying for it.* (Emphasis added).[13]

In *State v. Talley*,[14] the defendant was convicted of murder in the Court of Common Pleas for Summit County. The record does not disclose any action taken by the Court of Common Pleas on the application for a Bill of Exceptions at the state's expense. However, the Supreme Court of Ohio reversed the Summit County Court of Appeals when the Supreme Court denied the defendant's motion to require the state of Ohio to furnish the cost of the Bill of Exceptions after the notice of Appeal had been filed. In *State v. Armstrong*,[15] the Court of Appeals for Mahoning County said upon a motion for a transcript and Bill of Exception in a criminal case:

> Ohio gives to every person convicted in a criminal trial a right of appeal; therefore, an indigent defendant convicted of a felony has a

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[10] State v. Frato, 168 Ohio St. 281, 154 N.E. 2d 432 (1958).

[11] *Id.* at 282, 154 N.E. 2d at 433.

[12] *Id.* at 284, 154 N.E. 2d at 434.

[13] *Id.*

[14] State v. Talley, 11 Ohio St. 2d 190, 228 N.E. 2d 311 (1967).

[15] State v. Armstrong, 18 Ohio App. 2d 249, 248 N.E. 2d 212 (1969).

> right under the due process and equal protection clauses of the United States Constitution to have a transcript of the record and a sufficient Bill of Exception to provide for an appeal to which he is entitled as a matter of right. *Destitute defendants must be afforded as adequate appellate review as defendants who have money to buy transcripts....* An indigent defendant, or his counsel, in ordering a Bill of Exceptions should keep in mind the provisions of Section 2945.65, Revised Code, that *if the assignments of error are other than to the weight or sufficiency of the evidence,* the Bill of Exceptions need only contain so much evidence as is necessary to properly present the claimed errors.... (Emphasis added).[16]

In light of the *necessity* for a transcript of the testimony and evidence offered in the trial of his case to *effectively prosecute* an appeal and to be effectively represented by counsel, it is necessary that the indigent juvenile be afforded all due process and equal protection which he is not when such records or bills of exceptions are made readily available to those alleging similar error in the prosecution of an appeal from the juvenile court, but are able to prepay the cost of such.[17]

I submit that it is not the intention of the Ohio legislature to deny an indigent juvenile due process and equal protection of the law.[18] In consideration of the foregoing, it is the author's contention that the case of an indigent child charged with delinquency by reason of violation of a criminal statute *does come within the meaning of "criminal case" and "felony case" as prescribed by sections 2103.24 and 2953.03 of the Ohio Revised Code, for the limited purpose of acquiring a transcript of testimony and evidence offered in the trial of the case or a bill of exceptions without prepayment of the costs thereof, the costs thereof to be paid from the county treasury and taxed as costs in the case, in order to effectively prosecute an appeal.*

This contention is made notwithstanding sections 2151.02 and 2151.358 of the Ohio Revised Code which indicate that delinquency is not a crime and that a child is not a criminal by reason of such adjudication. Furthermore, this contention is made notwithstanding those Ohio case authorities which have found that juvenile proceedings are civil in nature rather than criminal.[19]

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16 *Id.* at 251-253, 248 N.E. 2d at 214.

17 *See* Griffin v. Illinois, 351 U.S. 12 (1956).

18 OHIO REV. CODE §2151.01 (1953):

> The sections in Chapter 2151 of the Revised Code... shall be liberally interpreted and construed so as to effectuate the following purposes...
> (D) to provide judicial procedures through which Chapter 2151 of the Revised Code is executed and enforced, and in which the parties are assured of a fair hearing, and their constitutional and other legal rights are recognized and enforced.

19 Cope v. Campbell, 175 Ohio St. 475, 196 N.E. 2d 457 (1964).

However, one must now be cognizant of the holding of the Supreme Court of the United States in the landmark decision of *In re Gault*,[20] that neither the Fourteenth Amendment nor the Bill of Rights is for adults alone and that the due process requirements of the Federal Constitution do not interfere with provisions for the processing of juveniles separately from adults. *Gault* expressly rejects the distinction of what is called the " 'civil' label-of-convenience, which has been attached to juvenile proceedings," as a reason for holding the Due Process Clause of the Federal Constitution inapplicable to a juvenile proceeding. In its most recent decision on juvenile proceedings, *In re Winship*,[21] the Supreme Court again relied on the rationale of *Gault* in ruling that a juvenile, having been found to be a delinquent by reason of violation of a criminal statute cannot be convicted except on proof "beyond a reasonable doubt"[22] of every fact necessary to constitute the crime. The court notes in *Winship:*

> We made clear in that [*Gault*] decision that *civil labels and good intentions do not themselves obviate the need for criminal due process safeguards* in juvenile courts, for [a] proceeding where the issue is whether the child will be found to be delinquent and subjected to the loss of his liberty for years *is comparable in seriousness to a felony prosecution.* (Emphasis added).[23]

The facts before the Supreme Court in *Gault* were such that the state of Arizona did not specifically provide for an appeal from a final order of the juvenile court. Therefore, the court noted, it is unnecessary to provide the defendant with a transcript of the proceedings. At this point, one must take care so as to distinguish the instant case from *Gault*. In Ohio, the question of the defendant's *right* to appeal from a final order of the juvenile court is *not* an issue. In *In re Whittington*,[24] the Court of Appeals for Fairfield County following remand from the Supreme Court of the United States said of that juvenile proceeding:

> After two years and six appeals this case has been before the Juvenile Court, the Common Pleas Court, the Fifth District Court of Appeals, the Supreme Court of Ohio, the United States Supreme Court, and is now again before this Court of Appeals. *We defend the right of Buddy Lynn Whittington to appeal* and to try to appeal whenever he believes he is entitled to that right.... (Emphasis added).[25]

It is well recognized in many states with laws similar to those of Ohio that an indigent defendant in the juvenile court should be provided an adequate record without prepayment of costs when an appeal is taken

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[20] 387 U.S. 1 (1967).
[21] *In re* Winship, 397 U.S. 358 (1970).
[22] *Id.*
[23] *Id.* at 366.
[24] *In re* Whittington, 17 Ohio App. 2d 164, 245 N.E. 2d 364 (1969).
[25] *Id.* at 170, 245 N.E. 2d at 368.

from a final judgment of that court as provided by law. For example, the Iowa Supreme Court in *Chambers v. District Court of Dubuque County*,[26] construed the statutes of that state *allowing a transcript of evidence or a Bill of Exceptions to be furnished at no cost to an indigent defendant in a criminal case, so as to allow the indigent juvenile to appeal from a final order of the juvenile court.*

The question before the Iowa Supreme Court in the *Chambers* case was whether an indigent parent is entitled at public expense to a transcript of the evidence to prosecute an appeal from a juvenile court decree when such an appeal was specifically authorized by statute. In reference to the right to appeal, the Court said:

> The right to appeal was unknown at common law. It may be granted or denied by the legislature ... [o]nce the right to appeal has been granted, however, it must apply equally to all. It may not be extended to some and denied to others.... The conclusion is inescapable that the [Iowa] legislature intended to afford all persons coming before the Juvenile Court a full and complete review on appeal [232.58, Iowa Code]. This is particularly true in view of Section 232.1 [Iowa Code], *which provides that the chapter shall be liberally construed so that each child coming within the jurisdiction of the court will receive care and guidance that will conduce to his welfare and the best interests of the state.* It must be assumed that this right of appeal, particularly in view of Section 232.1 was not intended to be limited to those cases in which the minor child or his parents are financially able to afford such appeal. Certainly the legislature intended that the indigent parent should receive an appeal equal to that of the affluent one. (Emphasis added).[27]

In direct reference to the question of the transcript, that Court further said:

> Chapter 232 contains no provisions concerning a transcript of the proceedings before the Juvenile Court. It does require, however, that all proceedings before the Juvenile Court be reported ... *it would be a strange interpretation of Chapter 232 indeed if we should find that the legislature specifically gave plaintiff the right to appeal; that it specifically provided for the appointment of counsel for indigent persons, but that it nevertheless refused to permit plaintiff to pursue her statutory right to appeal solely because she was unable to afford a transcript.* We are unwilling to so hold.... We find therefore that plaintiff is entitled to a transcript without cost to plaintiff. (Emphasis added).[28]

And, as to the effect of their decision, the Iowa Supreme Court said:

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[26] Chambers v. District Court of Dubuque County, 261 Iowa 31, 152 N.W. 2d 818 (1967).
[27] *Id.* at 33, 152 N.W. 2d at 820, 821.
[28] *Id.* at 35, 152 N.W. 2d at 821. *See* IOWA CODE ANN. Chapter 232 "Neglected, Dependent, and Delinquent Children."

> . . . [O]ur Chapter 232 is one of general application, and the rules which we adopt will be used in all proceedings in the juvenile court. The procedure which we approve today in a dependency matter must be used tomorrow to govern the conduct of a delinquency hearing.[29]

This same issue was involved in the Illinois case of *People v. Boykin,*[30] where the Court noted that the only reason a free transcript was not furnished to the appellant and his father (both of whom were indigents) stemmed from the fact that . . . "[t]he offense of carrying a concealed weapon with which the appellant was charged is a misdemeanor . . . and . . . the denial of the transcript was therefore authorized under our Rule."[31]

However, it cannot be denied that the Illinois Court attempted to recognize the right of an indigent juvenile offender to a free transcript, as it also did in a later case, *People v. March.*[32] In *March,* the Illinois Supreme Court once again refused to order a free transcript based upon Rule 207(b)[33] of the rules of Illinois Supreme Court which provides the right to the defendant to petition the court for a transcript of his trial. However, in this case, as in *Boykin,* the State urged that a free transcript not be given since the offense was *only* a misdemeanor, and the court replied:

> As we held in *Boykin,* the line between a felony and a misdemeanor cannot be applied to proceedings under the Juvenile Court Act, because regardless of the quality of the immediate offense that produces the adjudication of delinquency a juvenile may be retained in custody until he attains his majority. The appropriate analogy therefore in all juvenile cases is to the felony rather than to the misdemeanor.[34]

Therefore it appears that in Illinois, Iowa, and Minnesota, the Courts are recognizing the right and the need for a transcript to be provided to a juvenile without cost in order to prosecute an effective appeal.

Another judicial interpretation of statutes similar to those in Ohio is seen in the Minnesota case of *Munkelwitz v. Hennepin County Welfare*

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[29] 261 Iowa at 36, 152 N.W. 2d at 822.

[30] People v. Boykin, 39 Ill. 2d 617, 237 N.E. 2d 460 (1968).

[31] *Id.* at 620, 237 N.E. 2d at 462.

[32] People v. March, 237 N.E. 2d 529 (Ill. 1968).

[33] ILL. SUP. CT. (CRIM.) R. 207(b) provides that:
> In all cases in which the defendant is convicted of a felony . . . the defendant may petition the court in which he was convicted . . . for a report of proceedings at his trial and that if the defendant is indigent it shall be furnished to him without charge.

[34] 237 N.E. 2d at 532.

Department,[35] where the Supreme Court of Minnesota issued a writ of mandamus to order at public expense a transcript of the proceedings in the juvenile court which terminated parental rights of an indigent. The Court noted that it was persuaded by the Iowa Court in the *Chambers* case and concluded by holding:

> It requires no authority to demonstrate that an appeal *de novo* without a transcript of the evidence upon which that appeal is based is, in effect, no right of appeal at all . . . we find therefore that plaintiff is entitled to a transcript of the hearing held in juvenile court, and that the county must provide such a transcript without cost to the plaintiff.[36]

It is the author's opinion that the Minnesota Court's opinion of the *Gault* case as to an indigent juvenile's right to transcript is the correct approach to this entire problem, for the court noted that:

> Although the court did not find it necessary to decide whether an indigent delinquent must be furnished a free transcript (in *Gault*), the opinion strongly underscores the necessity for according litigants in juvenile court all of the procedural due process customarily granted to defendants in criminal court.[37]

With this type of precedent existing in states which have legislation similar to Ohio, I feel that an argument sufficiently exists to call for a transcript to be furnished to an indigent juvenile in Ohio without cost to that indigent juvenile offender based solely upon the cases cited and statutory language as it was interpreted by the various courts reviewed.

A second area of analysis and emphasis which is necessary for a complete determination of the right of the indigent juvenile to a free transcript comes to us by virtue of the due process and equal protection clauses of the United States Constitution.

The "Due Process" and "Equal Protection" clauses of the Fourteenth Amendment to the Constitution of the United States are violated when a state which provides for appeals from a final judgment in either a civil or criminal case, administers those provisions in such a way as to deny full appellate review to an indigent defendant solely because of his inability to pay for a transcript of the record and a full Bill of Exceptions recording the testimony, exhibits, and the conduct of the trial. This was the overriding concern of the United States Supreme Court in *Griffin v. Illinois*,[38] wherein the Court stated, in a broad principle, that there can

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[35] Munkelwitz v. Hennepin County Welfare Dep't, 280 Minn. 377, 159 N.W. 2d 402 (1968).

[36] *Id.* at 380, 159 N.W. 2d at 403.

[37] *Id.* at 380, 159 N.W. 2d at 404.

[38] 351 U.S. 12 (1956).

be no equal justice where the kind of trial a man gets depends on the amount of money he has. In *Griffin*, the court vacated the denial by the Illinois Supreme Court of a petition for post-conviction relief because the state had not provided the indigent defendants with a free copy of the trial transcripts. Under Illinois law, in order to get full direct appellate review of alleged errors it was necessary for the defendant to furnish the appellate court with a full Bill of Exceptions or report of proceedings at the trial certified by the trial judge (which presently exists in Ohio[39]). Also in Illinois, only indigent defendants sentenced to death were provided with a free transcript of the trial proceedings. In all other criminal cases, defendants, whether indigent or not, had to pay the cost of the transcript themselves according to a uniform fee scale. In this landmark decision the Supreme Court said:

> Both equal protection and due process emphasize the central aim of our entire judicial system. . . . In criminal trials a state can no more discriminate on account of poverty than on account of religion, race, or color. . . . It is true that a state is not required by the Federal Constitution to provide appellate courts or a right to appellate review at all. But that is not to say that a state that does grant appellate review can do so in a way that discriminates against some convicted defendants on account of their poverty. . . . Such a denial is a misfit in a country dedicated to affording equal justice to all and special privileges to none in the administration of its criminal law. There can be no equal justice where the kind of trial a man gets depends on the amount of money he has. Destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts.[40]

The principle discussed in *Griffin* is well established today. All states now recognize that, "the imposition by the state of financial barriers restricting the availability of appellate review for indigent criminal defendants has no place in our heritage of Equal Justice Under the Law."[41]

This principle of *Griffin* was only recently solidified by the Supreme Court in *Boddie v. Connecticut* wherein the Court held:

> In view of the basic position of the marriage relationship in our society and the State monopolization of the means for dissolving that relationship, due process of law prohibits a State from denying, *solely*

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[39] *See* OHIO REV. CODE—Trial, Criminal, at Bill of Exceptions §2945.65, *et seq.* §2953.03.

[40] 351 U.S. at 17-19.

[41] Burns v. Ohio, 360 U.S. 252, 258 (1954). *See also* Smith v. Bennett, 365 U.S. 708 (1961); Gardner v. California, 393 U.S. 367 (1969); Draper v. Washington, 372 U.S. 487 (1963); Williams v. Oklahoma City, 395 U.S. 458 (1969); Rinaldi v. Yeager, 384 U.S. 305 (1966).

> because of inability to pay court fees and costs, access to its courts to indigents. . . . (Emphasis added).[42]

The constitutional mandate that all citizens be accorded the equal protection of the laws has formed the basis of many federal and state court opinions. Perhaps the greatest impact of this can be seen in the newly emerging case law. In *Lee v. Habib,*[43] the appellant brought appeals from two decisions of the District of Columbia Court of Appeals to the Federal Circuit Court for the District of Columbia involving the power of the court to order a free transcript for the use of an indigent civil litigant on appeal. In writing the opinion of that court, Circuit Court Judge Skelly Wright, said:

> While most cases extending equal protection to the judicial process have involved criminal proceedings, the constitutional mandate that there be no invidious discrimination between indigent and rich litigants is being recognized in civil cases and criminal cases; the Constitution protects life, liberty and property. It is the importance of the right to the individual, not the technical distinction between civil and criminal, which should be of importance to a court in deciding what procedures are constitutionally required in each case. Often a poor litigant will have more at stake in a civil case than in a criminal case . . . *the right of all to have free access to the courts is basic to our democratic system.* (Emphasis added).[44]

This decision, coupled with the view set forth by the Supreme Court in *Griffin,* purports to preclude the denial of equal access to the courts by *all.* This concept has just recently been expounded by the Ohio Court of Appeals for Greene County in *State v. Ross,*[45] where an indigent juvenile offender was held to be entitled to a record in a "waiver hearing." The court noted in that case:

> At this point, we may also judicially notice that the "due process" and "equal protection" clauses of the Fourteenth Amendment to the Constitution of the United States are violated when a state which provides for appeal from conviction of crime as a matter of right administers such right in such a way as to deny full appellate review to an indigent defendant. . . . In fact the constitutional right of an indigent defendant in a felony case to a bill of exceptions and transcript is specifically recognized in Ohio Revised Code section 2953.03.[46]

The court of appeals in *Ross* concluded from the opinion of the United States Supreme Court in the case of *In re Gault* that:

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[42] Boddie v. Connecticut, 401 U.S. 371 (1971).
[43] Lee v. Habib, 424 F. 2d 891 (D.C. Cir. 1970).
[44] *Id.* at 898-901.
[45] 23 Ohio App. 2d 215, 262 N.E. 2d 427 (1970).
[46] *Id.* at 216-217, 262 N.E. 2d at 429.

> . . . [The commenting] upon the desirability of providing a record of proceedings in Juvenile Court, and a perusal of the various opinions rendered in that case leads to the conclusion that a majority of the court was of the opinion that constitutional standards require a written record adequate to permit review on appeal.[47]

With these views having been promulgated by the court of appeals in *Ross* and taken in conjunction with their holding that "an indigent juvenile offender is entitled to a record in a hearing conducted for the purpose"[48] of waiver, this author contends there now exists within the current state of the law binding on the juvenile courts of Ohio sufficient arguments to contend and sustain the right of the indigent juvenile to be furnished a transcript by the court in order that he might prosecute an effective appeal.

Addendum

The issue of this comment almost came to the point of litigation in late 1970 in the case of Leo LaRue Belton, case no. 70-1445, Court of Common Pleas, Juvenile Division, Summit County, City of Akron, Ohio. In this case which was being handled by the University of Akron School of Law, Appellate Review Office (of which this writer was a staff worker) research for litigation of this comment's topic was begun but abruptly terminated when visiting Judge Bevans sitting for Judge Thomas of Juvenile Court in Summit County provided the Appellate Review Office with a Bill of Exceptions free of cost to the indigent juvenile. This "precedent" in Summit County provides an indigent juvenile offender with a transcript; yet, this is not, by any means, binding on Ohio as a whole (possibly not even on Summit County). Therefore, the above arguments must still be made in a court of Ohio and litigated to the point of becoming substantive law binding on Ohio's juvenile court system.

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[47] *Id.* at 217, 262 N.E. 2d at 429.
[48] *Id.* at 217, 262 N.E. 2d at 429.