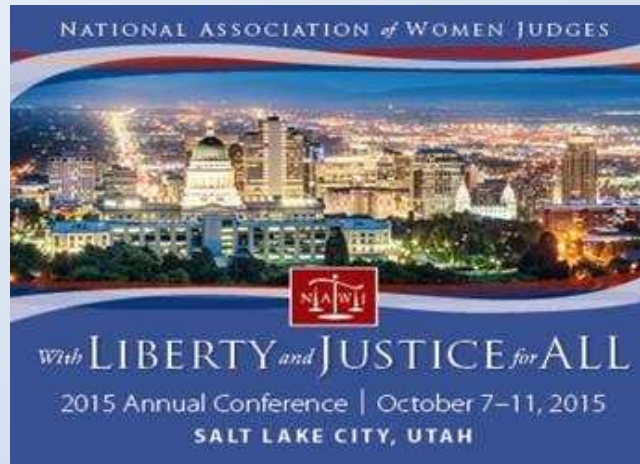




National Archives





In Re Gerald Gault

“... an obscure Arizona case ...”

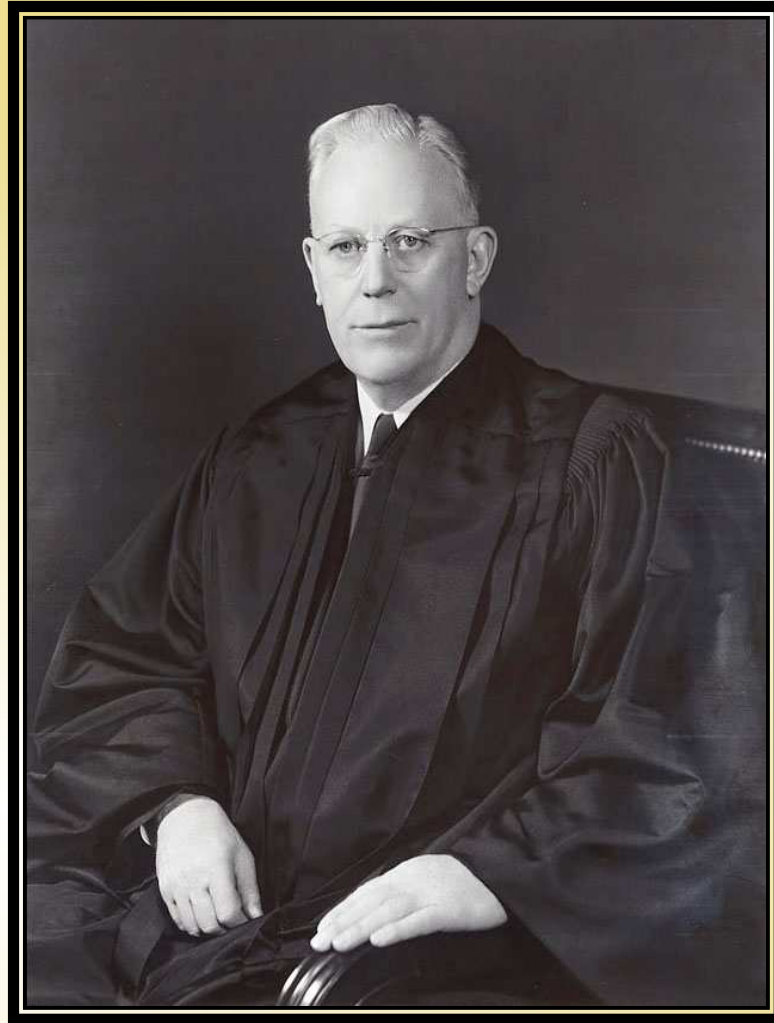
51 years later

Peter Cahill

Lisa Pferdeort

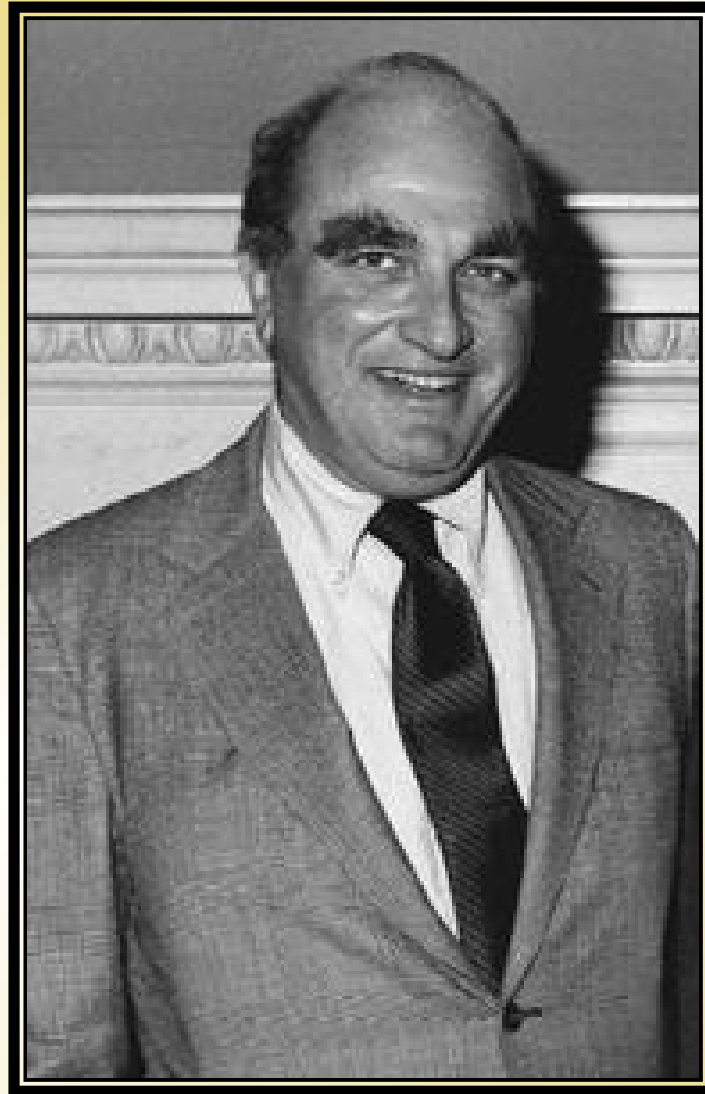
WHAT IS PAST
IS PROLOGUE





Chief Justice Earl Warren





Norman Dorsen







WHAT IS IT ABOUT
JUVENILE COURT
THEORY OR
PHILOSOPHY?



Illinois Supreme Court

Why should children be deprived of liberty without “due process of law”?



Juvenile Court Judges:



“...gain the trust of youth through informal conversation.”



BOY
IN COURT

COPYRIGHT, MCMXL — THE NATIONAL PROBATION ASSOCIATION

The constitutional and theoretical basis for this *peculiar* system is—to say the least—debatable.

Justice Fortas

Judge Raul H. Castro

I served the role of ‘surrogate father’ or ‘patriarch’ rather than judge.

Adversity Is My Angel
The Life and Career of Raul H. Castro





Idaho Supreme Court

Juvenile Court confers:

“favors, privileges, and opportunities,
and not penalties, burdens, or
exactions.”

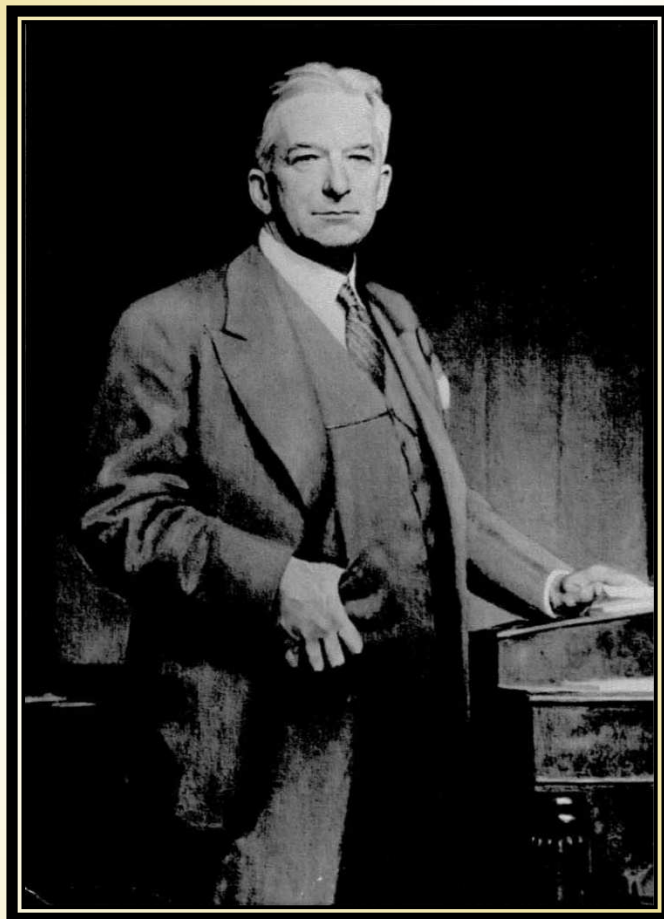
“... unbridled discretion,
however benevolently motivated,
is frequently a poor substitute for
principle and procedure.”

Application of Gault

The powers of the Star Chamber
were a trifle in comparison with those
of our juvenile courts.

Roscoe Pound

Chief Justice Arthur T. Vanderbilt



1945

**"JUSTICE" VERSUS "INDIVIDUALIZED TREATMENT"
IN THE JUVENILE COURT**

David Bogen

Should the Juvenile Court concentrate upon individual treatment to the exclusion of considerations of justice?

Justice Abe Fortas







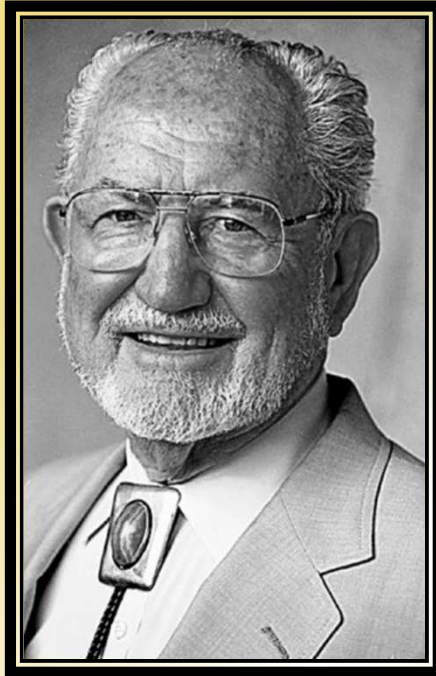
Nebraska Supreme Court



Nebraska Supreme Court



New Jersey Supreme Court



ARIZONA
LAW REVIEW

VOLUME 4

FALL, 1962

NUMBER 1

JUVENILE COURT - A LABYRINTH
OF CONFUSION FOR THE LAWYER

HON. JOHN J. MOLLOY^o



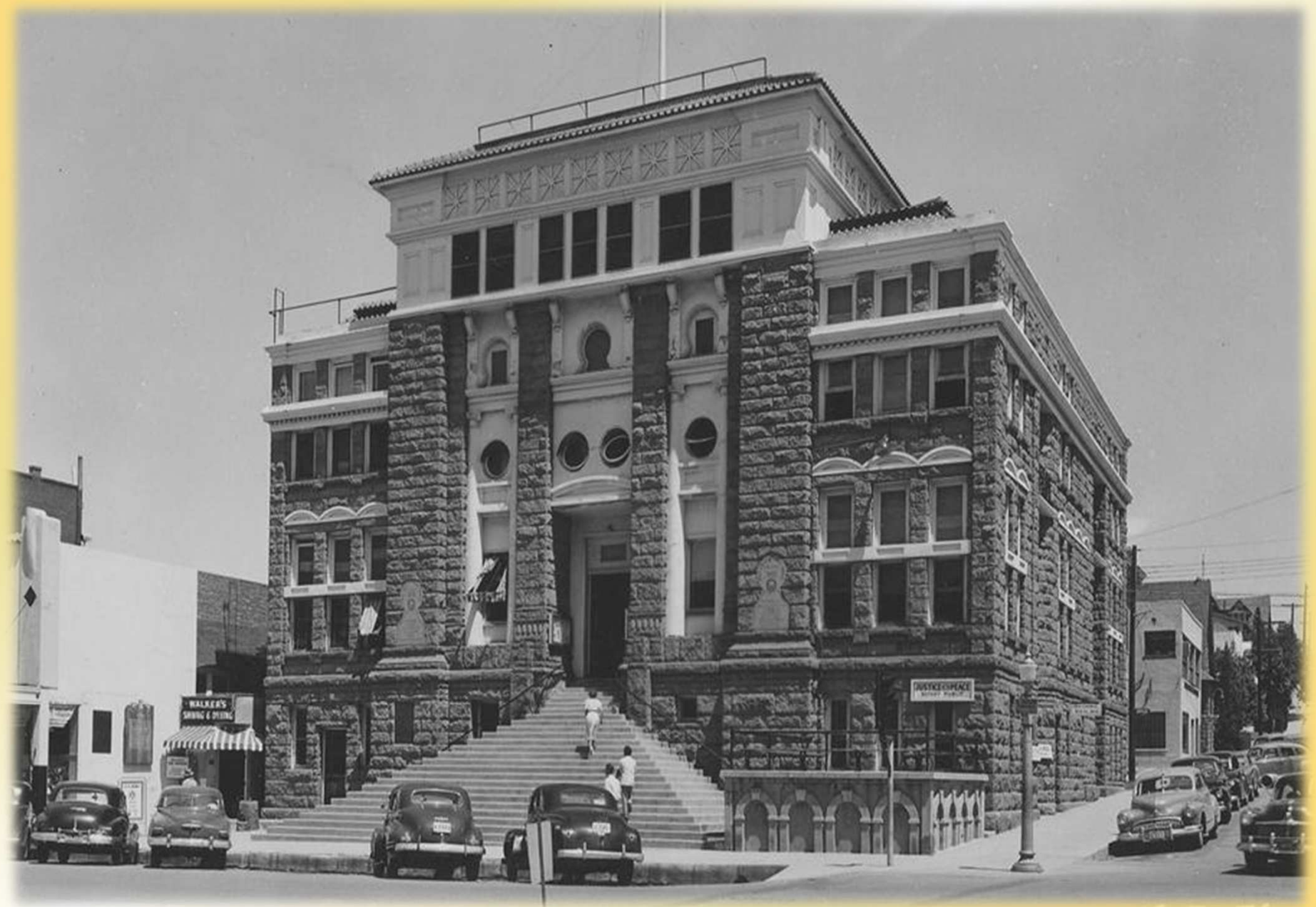


G-1

Broad Street at Court House, Globe, Arizona



28-H 1501



The Stolen Wallet

FEBRUARY 1964

Six months probation, but if you
come back...

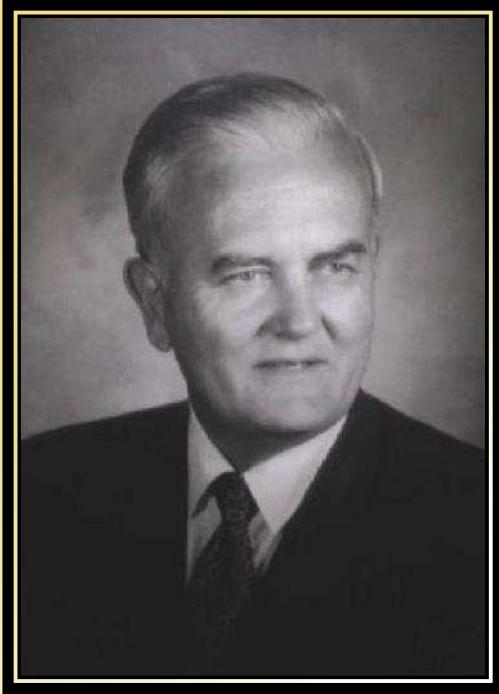
June 8, 1964

- Who was Ronald Lewis?
- Poor Mrs. Cook
- “Are your cherries ripe today?”
- “Do you have big bombers?”

June 8, 1964

- 10:00 am
 - Gerald Gault and Ronald Lewis taken into custody of Sheriff
- 6:00 pm
 - Where is Gerry?
- Gerald Gault's first night in custody

The Petition



Judge McGhee

“... said minor is ...
a delinquent minor.”

The Petition

“...said minor is under the age of eighteen years, and is in need of the protection of his Honorable Court; said minor is a delinquent minor.”

The “formal” petition

June 9, 1964

Hearing before Judge Robert McGhee

- No Accuser
- No transcript made
- No record prepared
- No attorneys present
- No sworn testimony

Judge McGhee questioned Gerry directly...

Mrs. Gault:

Judge McGHEE has set Monday June 15, 1964
at 11:00A.M. as the date and time for
further Hearings on Gerald's delinquency

A handwritten signature in black ink, appearing to read "Hayes", is written in a cursive style below the typed text.

June 15, 1964

- Gerry Gault and his parents, Paul and Marjorie
- Ronald Lewis and his father
- Deputy Flagg and Deputy Henderson
- Judge McGhee questioned Gerry
- Different recollections of what Gerry said
- No need for victim...

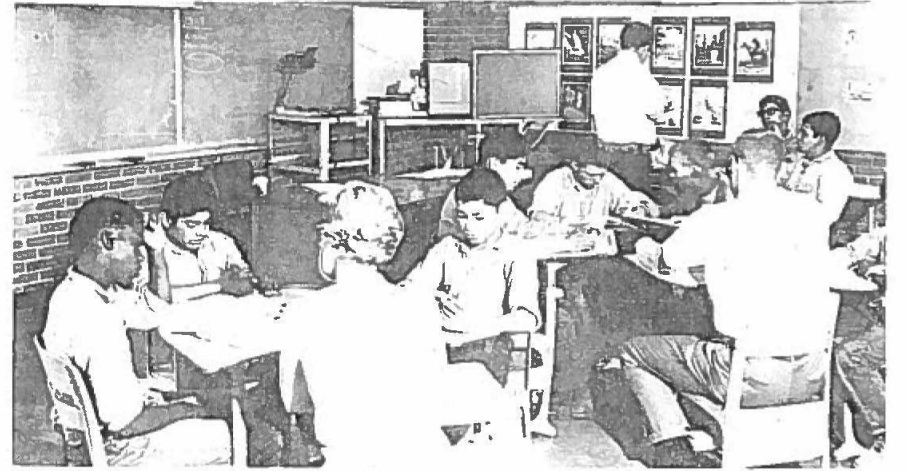
Committed to Ft. Grant:
“For the Period of his Minority,
Unless Sooner Discharged.”



Ft. Grant



Learning a trade at A.S.I.S.



Academic Study in Modern Facilities at A.S.I.S.



Amelia Lewis









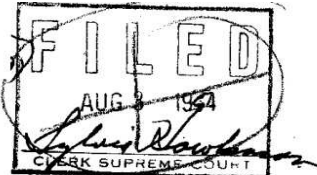
Justice Lorna Lockwood

Supreme Court
STATE OF ARIZONA
LORNA E. LOCKWOOD
CHIEF JUSTICE
Phoenix



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IN THE SUPREME COURT
OF THE STATE OF ARIZONA



164769

In the Matter of the Application)
of PAUL L. GAULT and MARJORIE)
GAULT, father and mother of)
GERALD FRANCIS GAULT, a Minor,)
WRIT OF HABEAS CORPUS)

FILE NO. 8476
PETITION IN FORM OF
AFFIDAVIT IN SUPPORT
OF APPLICATION FOR

FILE NO. 8476
PETITION IN FORM OF
AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
WRIT OF HABEAS CORPUS.

of said minor and they reside together with said minor as above.
They make this affidavit as part of an application for the
issuance of a Writ of Habeas Corpus to the Supreme Court and
respectfully show the following:

I

That said minor is presently detained at the Arizona State
Industrial School, Wilcox, Arizona, pursuant to a commitment
made by the Honorable Robert E. McGhee, Judge of the Superior
Court of Gila County on June 15, 1964 under case number 2379
of that Court.

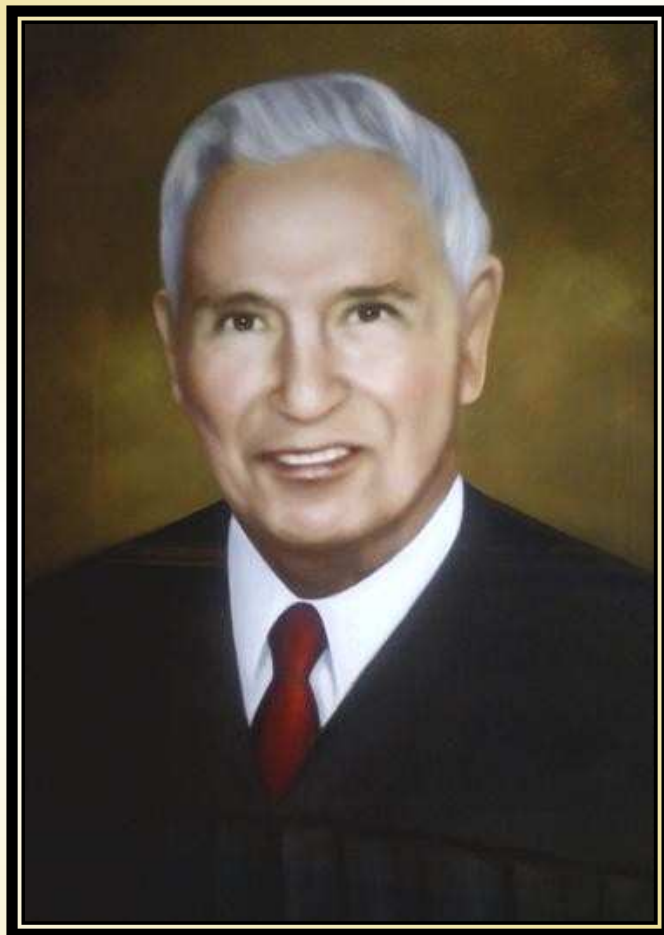
II

By said commitment Judge McGhee, acting as Juvenile Judge,
found said minor to be a delinquent and ordered said child to be
committed to the State Industrial School for the period of his
minority, unless sooner discharged by due process of law;
that said minor was immediately so committed and continues to
be so committed.



Maricopa County Superior Court

Judge Fred Hyder



The Attorneys

Phillip Haggerty

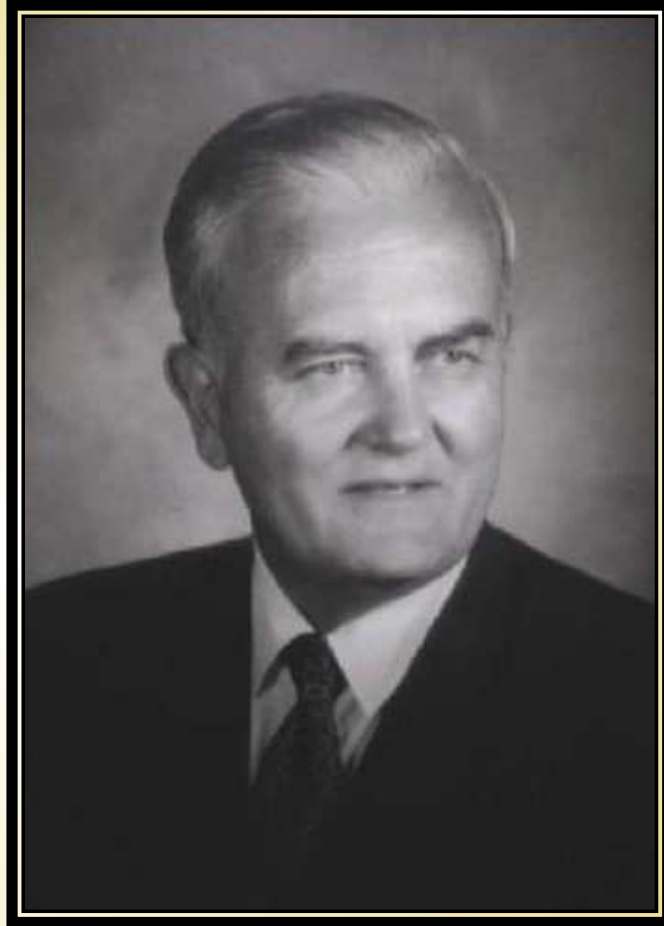


Amelia Lewis





Judge McGhee





THE COURT: Well -- but you may proceed and ask him questions, and the Court will separate the admissible from the inadmissible.

A I interrogated Gerald for three hours one night before I got the truth out of him on another matter.

Q Excuse me just a minute. I want to write that down.

THE COURT: The Court Reporter is taking
it down, Mrs. Lewis.



Q What else did you base your decision on to take the custody of that boy from the parents ?

A You - -

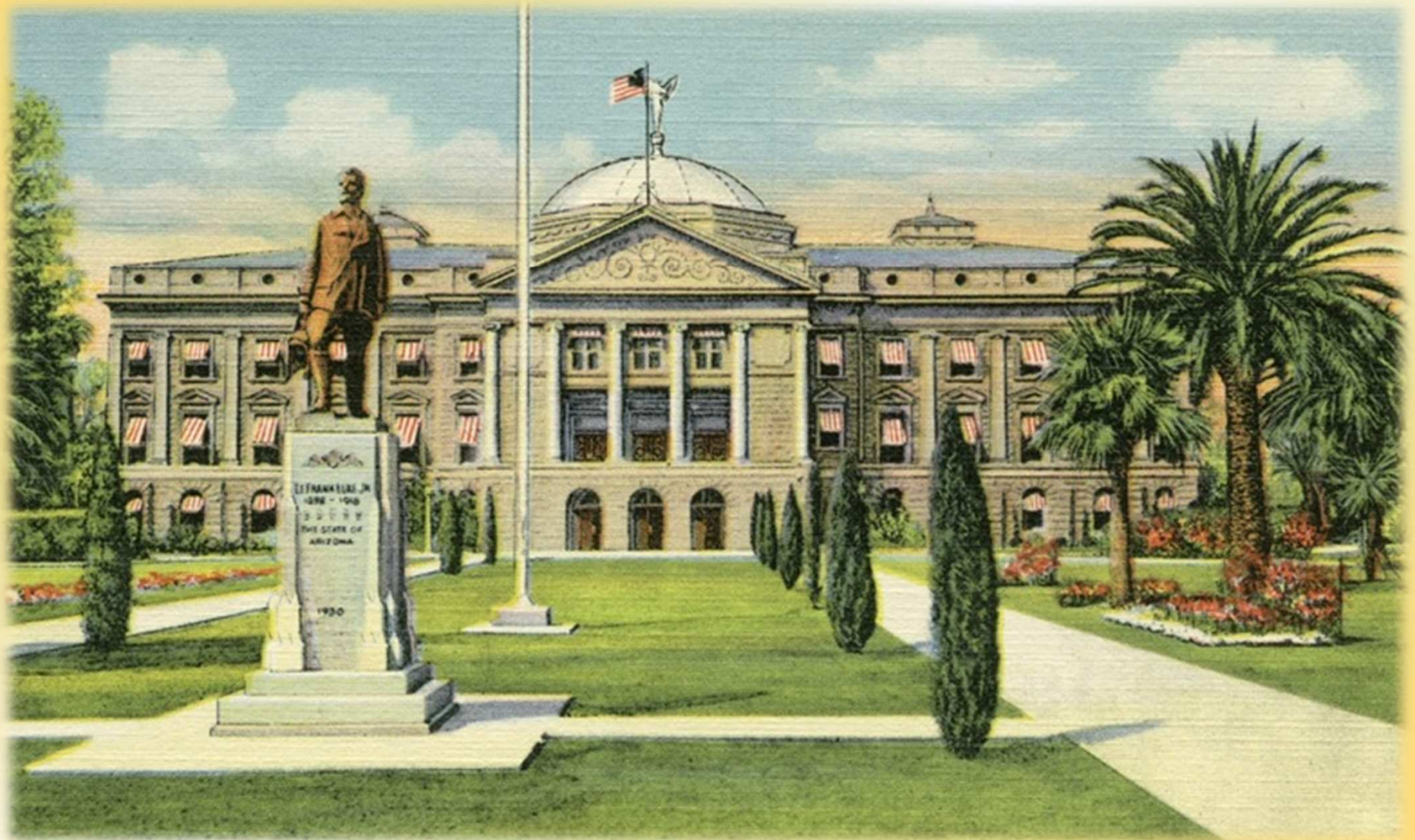
MR. HAGGERTY: Objection.

JUDGE MCGHEE: I will be glad to answer that question.

MR. HAGGERTY: I will object as invading the province of the judiciary.

THE COURT: The objection will be sustained.





Arizona Supreme Court

RECEIVED

MAR 5 1966

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
Supreme Court
OF THE
State of Arizona

APPELLANTS' OPENING BRIEF

AMELIA D. LEWIS
Counsel, Northern Chapter,
Arizona Civil Liberties Union
Attorney for Appellants

Attorney for Appellants

Received two copies of the within brief this 20th day of
November, 1964.

Philip M. Haggerty
for the Attorney General

Filed in the Supreme Court of Arizona this 20th day of
November, 1964.

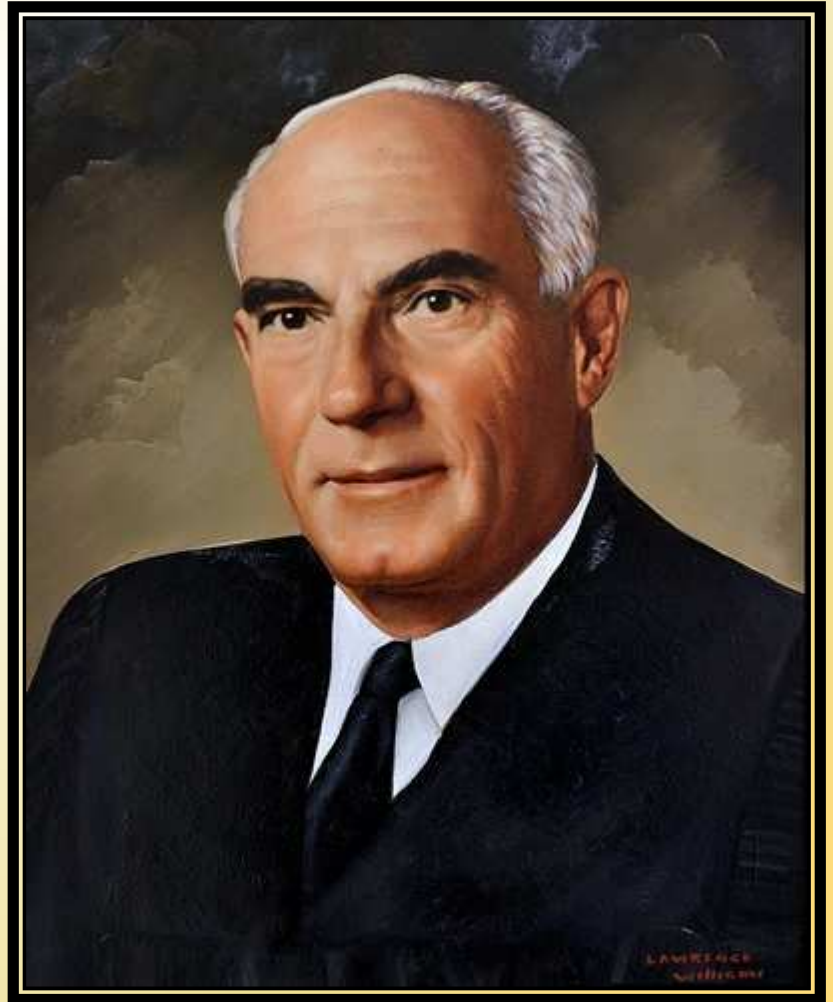
Sylvia Hawkins
Clerk *By A. Ryan*



Justice Charles Bernstein

Due Process Was Given

**Gerald was on probation.
No need for “further
showing of delinquency.”**





“The parent and the probation officer may be relied upon to protect the infant's interests.”

Arizona Supreme Court





Utah Supreme Court

The judge had no regard for the
rules that safeguard the rights of all.

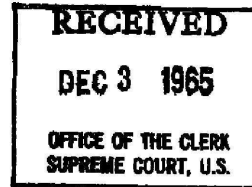
Mill v. Brown
(Utah 1907)



New Hampshire Supreme Court



AMELIA D. LEWIS
ATTORNEY AT LAW
FIRST FEDERAL SAVINGS BUILDING
1200 11TH AVENUE, YOUNGTOWN
P. O. BOX 370, SUN CITY, ARIZONA 85351
TELEPHONE 933-3501



December 1, 1965.

Clerk, United States Supreme Court
Washington
D. C.

Re: Matter of Gault

Honorable Sir:

Shortly I purpose to petition your Court for the allowance of an appeal or for a writ of certiorari (in the alternative) in the above matter which concerns a juvenile who was sent to the State Industrial School.

The Arizona Supreme Court is now considering rehearing the matter, on which I expect a decision shortly.

It gave its decision on November 10th in which it upheld the legality of the Arizona Juvenile Code which was put in question, as well as the matter of due process of law to the parents of the boy. The Court, as part of its opinion, held that a juvenile is not entitled to counsel.

I am not familiar with practice in your Court and would appreciate receiving from you a copy of whatever procedural steps I must abide by that do not appear in the rules or matter which may further expound the rules.

In addition, since I am not admitted to your Court, may I file as attorney for the petitioners and then be admitted on motion directly before the time of argument (assuming the Court will allow hearing on the matter). If so, may I also have copies of whatever application I should make to the Court and whether the same has to have any supporting documents from the State Bar.

Respectfully yours,



Mrs. Amelia D. Lewis

P.S. Is there any set decorum as to what the Court prefers women lawyers to wear when they appear. Does one wear a hat, etc.

I am not familiar with practice in your Court and would appreciate receiving from you a copy of whatever procedural steps I must abide by...

P.S. Is there any set decorum as to what the Court prefers women lawyers to wear when they appear. Does one wear a hat, etc.

December 6, 1965

Amelia D. Lewis, Esquire
First Federal Savings Building
12200 11th Avenue, Youngtown
P. O. Box 370
Sun City, Arizona 85351

Re: Matter of Gault

Dear Mrs. Lewis:

Replying to your letter of the 1st, I would suggest that you consult 28 U.S.C. 1254 and 1257. Should you have any additional questions after consulting those as well as a copy of the Rules, which I enclose, I will be pleased to give you any assistance.

I am enclosing an application for admission to practice attached to which you will find the Rules governing admissions. In the event you are not admitted before the case referred to is filed, it will be necessary that you either secure the permission of some member of the Bar of this Court to appear thereon or request that the appearance of the petitioner be entered pro se.

There is no set fashion as to the attire which women lawyers appear in Court. However, a hat is never worn.

Very truly yours,

John F. Davis, Clerk

By

E. P. Cullinan
Chief Deputy

EPC: lsr

Enclosures

Replying to your letter of the 1st, I would suggest that you consult 28 U.S.C. 1254 and 1257.

There is no set fashion as to the attire which women lawyers appear in Court. However, a hat is never worn.



League Leading Lion Cagers



Watching their coach from left to right standing are Norm Dorsen, Tim Nicoli, Norm Skinner, John Azary, Gunnar Olsen, John Cervieri, Frank Lewis, Stan Harwood, Bill Petrucelli and Coach Gordon Ridings. Left to right kneeling-- Bill Lockwood, Herb Poch, Bob Sullivan, Alex Kaplan and Sherry Marshall.

The Players

Amelia Lewis



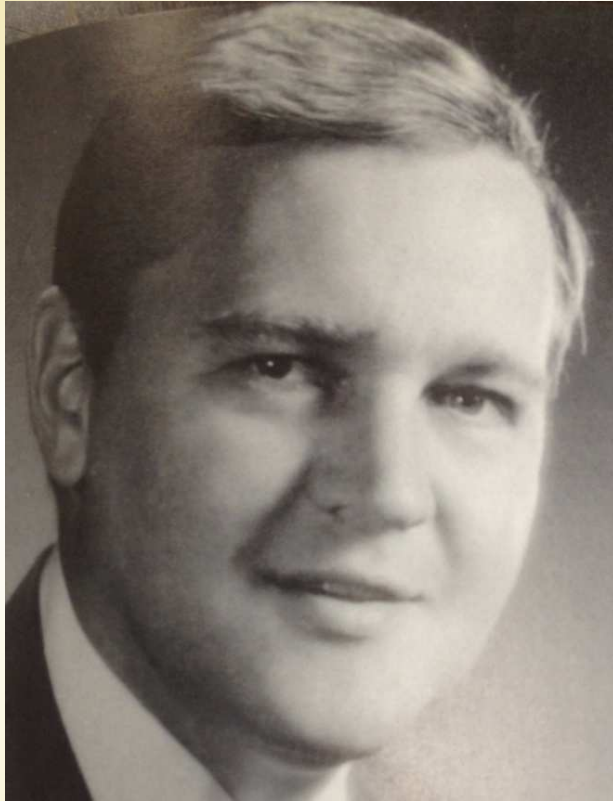
Norman Dorsen



Traute Mainzer



Frank Parks





RECEIVED

IN THE

APR 30 1966

Supreme Court of the United States
OF THE CLERK
SUPREME COURT, U.S.

AMELIE D. LEWIS

P. O. Box 370

Sun City, Arizona 85351

Attorneys for Appellants

JURISDICTIONAL STATEMENT

CHARLES E. ARES

Law

GERTRUD MAINZER

New York University

School of Law

Washington Square

New York, N.Y. 10003

CE
GE

of Counsel

New York University
School of Law
Washington Square
New York, N. Y. 10003

of Counsel





Supreme Court of the United States

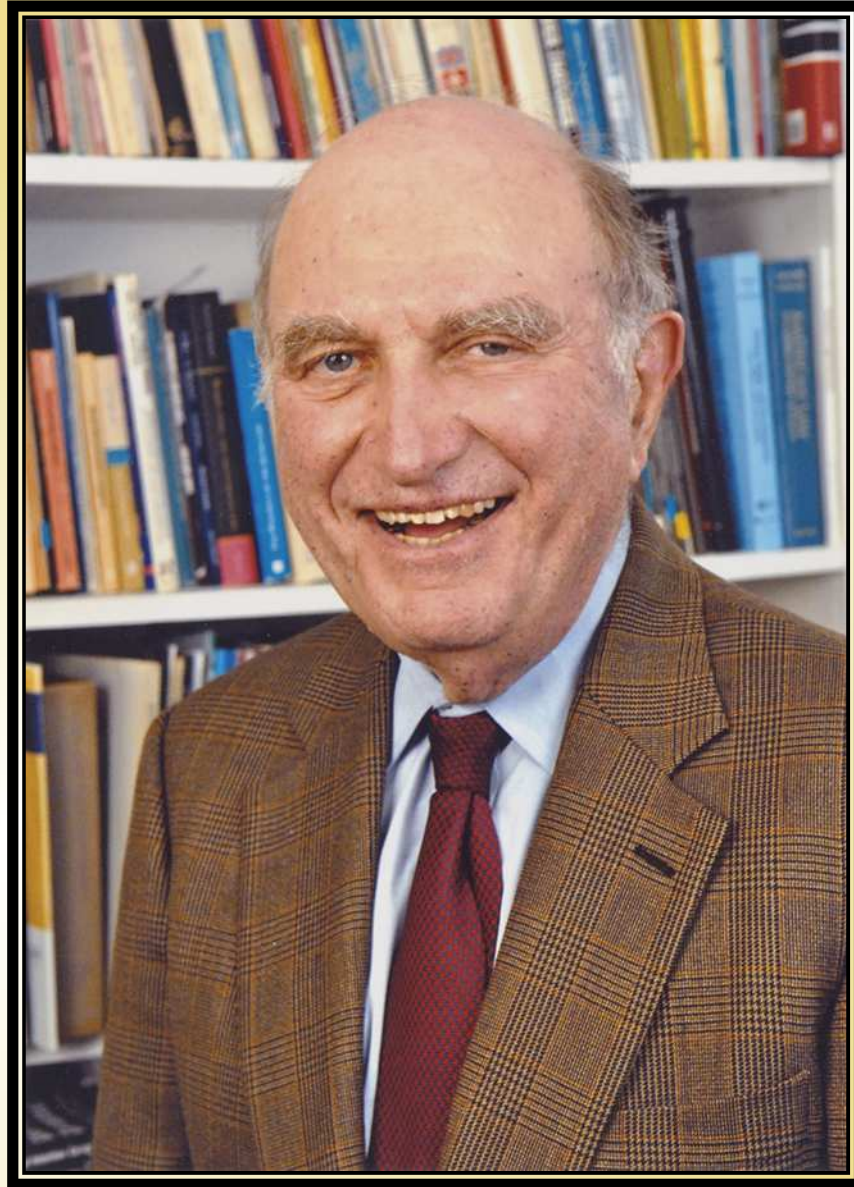
No. ~~1273~~ ¹¹⁶ ----, October Term, 19 ~~65~~ ⁶⁶

In the matter of the application of Paul I.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

June 20, 1966





Judge Thomas Tang





The Question

No. 116

IN RE GAULT

Appeal, A

(Two hours)

Does fact file Code provides less than all due process guarantees available in criminal proceedings render it unconstitutional?

(Two hours)



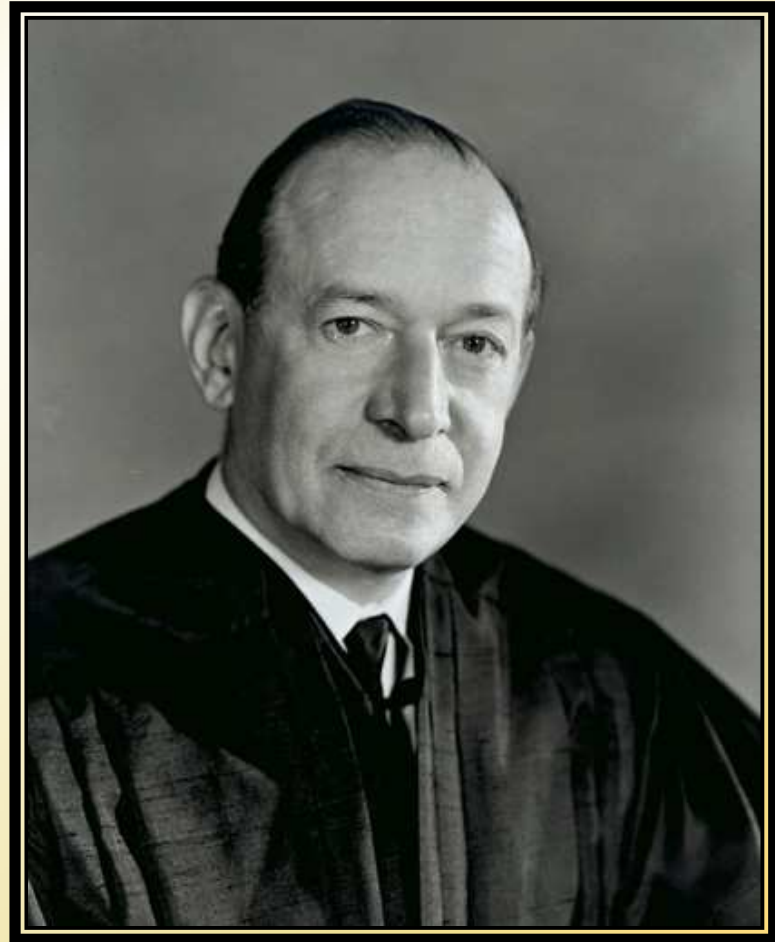


United States Supreme Court Cafeteria



Justice Fortas:

“...he has this whatever you want to call it, a ‘hearing’ or whatnot...”



DOMESTIC SERVICE	
Check the class of service desired; otherwise this message will be sent as a fast telegram	
TELEGRAM	
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TELEGRAM

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W. P. MARSHALL, PRESIDENT

INTERNATIONAL SERVICE	
Check the class of service desired; otherwise the message will be sent at the full rate	
FULL RATE	
LETTER TELEGRAM	
SHORE SHIP	

NO. WDS. - CL. OF SVC.	PD. OR COLL.	CASH NO.	CHARGE TO THE ACCOUNT OF	TIME FILED

Send the following message, subject to the terms on back hereof, which are hereby agreed to

Melvin L. Wulf
156 Fifth Avenue
New York, New York

May 15, 1967

JUDGMENT in GAULT case 116 REVERSED today. CASE REMANDED. Opinion
airmailed.

COLLECT
MRJr:ht
#116 Appellant

JOHN F. DAVIS, CLERK

1000 et al

SUPREME COURT OF THE UNITED STATES

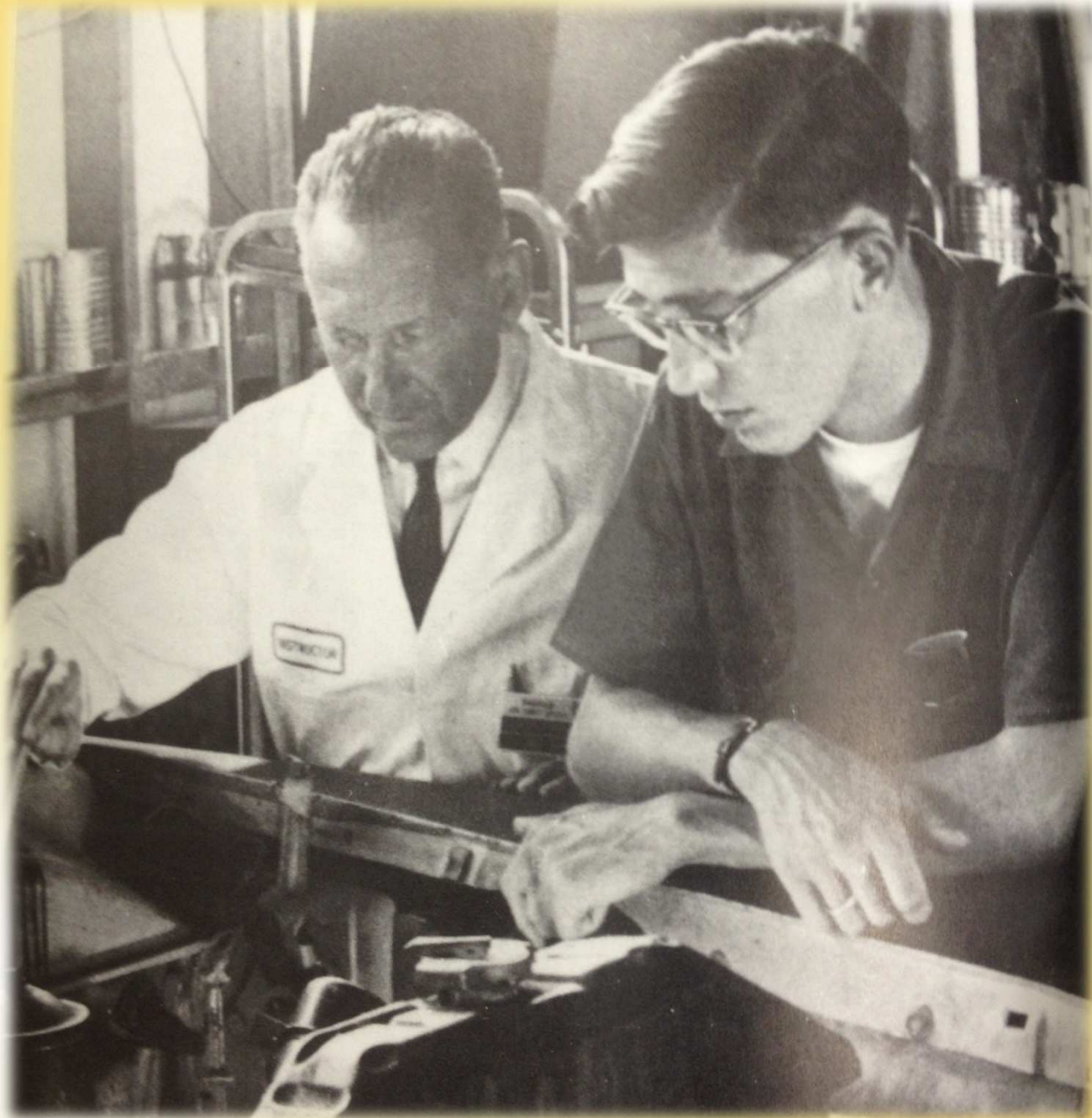
No. 116.—OCTOBER TERM, 1966.

In the Matter of the Application
of Paul L. Gault and Marjorie
Gault, Father and Mother of
Gerald Francis Gault, a Minor,
Appellants. } On Appeal From the
Supreme Court of
Arizona.

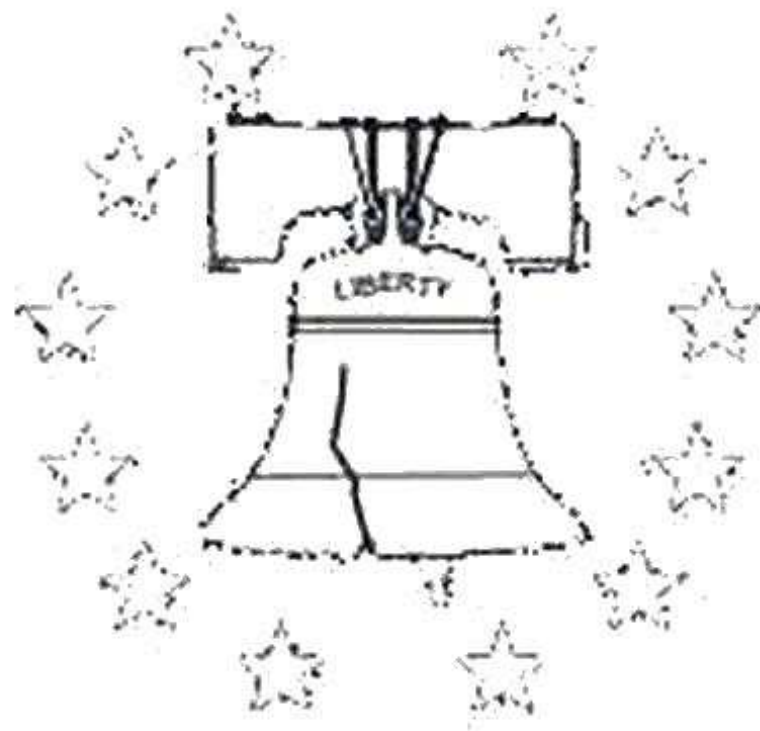
[May 15, 1967.]

MR. JUSTICE FORTAS delivered the opinion of the Court.
This is an appeal under 28 U. S. C. § 1257 (2) from a
judgment of the Supreme Court of Arizona affirming the





U.S. ARMY



**RECRUITING
SERVICE**

Juv. (Probation) Dept

Globe, Arizona

US ARMY RECRUITING STATION

P O BOX 228

SANTA MARIA, CALIF. 93454

Date: 24 Aug 68

Form approved
Budget Symbol No. 21-2099-1

Dear Sir:

GAULT, Gerald Francis who claims to have resided at Globe Mobile Home Trl. Crt,
Globe, Arizona from 1960 to 1964 and whose ~~supervisory~~ personal
description are recorded hereon is an applicant for enlistment in the United States ARMY. It is
requested that the following information be furnished from your files. A return envelope is inclosed for your
convenience.

1 Inclosure
Return Envelope

Very truly yours,

John C. Rosander
JOHN C. ROSANDER SSG USA
(Recruiting Officer)

POLICE RECORD CHECK		CITY AND STATE	DATE
HAS APPLICANT A POLICE OR JUVENILE RECORD (Indicate date when fully restored) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF "YES," WHAT WAS THE OFFENSE OR CHARGE, DISPOSITION, AND SENTENCE?			
IS APPLICANT NOW UNDERGOING COURT ACTION OF ANY KIND? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF "YES," GIVE DETAILS			
DOES CIVIL CUSTODY EXIST? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF "YES," SPECIFY			
IS APPLICANT <input type="checkbox"/> MARRIED <input type="checkbox"/> SEPARATED <input type="checkbox"/> DIVORCED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARITAL STATUS UNKNOWN			
REMARKS			
NAME		SIGNATURE	

DD FORM 369
1 MAR 64

REPLACES EDITION OF 1 AUG 58 WHICH MAY BE USED.

Date: 24 Aug 68

POLICE RECORD CHECK

HAS APPLICANT A POLICE OR JUVENILE RECORD

YES NO

Delinquency-Committed to the Arizona State Industrial School

DATE

Deputy Probation Officer

SIGNATURE



October 25, 1968

Dear Amelia:

**Re: Gerald Francis Gault
No. 8549**

I presented copies of your correspondence in regard to Gerald Francis Gault to the members of the Court, but the Court takes the position that nothing is now pending upon which it can take action.

**With kindest personal regards, and good wishes, I am
Sincerely,**

Ernest W. McFarland

IN THE MATTER OF APPLICATION
OF PAUL L. GAULT et al. etc.

NO. 8549

~~NOTICE OF~~ MOTION FOR
FURTHER PROCEEDINGS,
OR WRIT OF MANDAMUS.



Patricia Puritz

Amelia Dietrich Lewis and Gerald Francis Gault

Who would have made a difference?



Who would have made a difference?



Portia, *The Merchant of Venice*.

**ARIZONA SUPERIOR COURT
GILA COUNTY**

Date: August 6, 2014
PETER J. CAHILL, JUDGE
Division One

C. DURNAN
Judicial Assistant

IN THE MATTER OF:

Gerald Francis Gault

Cause No. 2379

Fifty years ago, on June 15, 1964, fifteen-year-old Gerald Gault was adjudicated delinquent and committed to the Arizona State Industrial School for up to six years. These orders deprived Gerald of “the essentials of due process and fair treatment,” without a written statement of the charge, without the right to cross-examine the complainant, without the benefit of the privilege against self-incrimination, without a transcript being kept of the proceeding, without the right of appeal, and without the right to a lawyer.¹ Does the ruling in a collateral action, *Application of Paul and Marjorie Gault*, 387 U.S. 1 (1967), require that the adjudication and commitment orders be vacated now?

Because the United States Supreme Court ordered that action be taken by Arizona courts in “*accord with right and justice*,” the orders made here in 1964 will be vacated.

I.

Paul and Marjorie Gault’s challenge to their son Gerald’s adjudication and commitment was a collateral action that sought *habeas corpus* relief. Although Mr. and Mrs. Gaults’ *habeas* application² was ultimately successful, by the time the Supreme Court issued its May 1967 ruling, Gerald had already been released from custody. As a result, the ruling in *Application of Gault* had no direct effect upon this court’s 1964 orders. This is demonstrated by the fact that the Docket maintained by the Gila County Clerk of the Superior Court does not reflect any action to vacate the adjudication and commitment orders. The docket still reads as follows:

1964	GAULT, GERALD FRANCIS	No. 2379
Feb. 7	Petition filed	
Feb 26	Juvenile Referral (<i>sic</i>) Report filed	
June 9	Petition filed	
June 15	Referral (<i>sic</i>) Report filed	
June 15	Commitment to State Industrial School	
1969		
Feb. 17	Order to Destroy records (see minute entry of this date)	

¹ Norman Dorsen, *Frontiers of Civil Liberties*, pp. 213-4; Pantheon Books, 1968.

² Filed August 3, 1964, in the Arizona Supreme Court.

**ARIZONA SUPERIOR COURT
GILA COUNTY**

Date: August 6, 2014
PETER J. CAHILL, JUDGE
Division One

C. DURNAN
Judicial Assistant

IT IS HEREBY ORDERED that in conformity with the mandate of the United States Supreme Court and in accord with what is right and just, the June 15, 1964 Adjudication of Delinquency and Order of Commitment are hereby **VACATED**.

Thanks to...

Prof. Norman Dorsen

Stokes Professor of Law and Counselor to the President, New York University

Mr. Phil Haggerty

Mr. Frank Parks

Mr. Frank Lewis

Mr. Daniel A. Rezneck

The Hon. Scott S. Harris

Clerk of the United States Supreme Court

Mr. Gary Kemp and Ms. Kathy Tycz

Clerk of the Court's Office, Supreme Court of the United States

Mr. William R. Ellis, Jr.

Archivist, Federal Judicial Records, National Archives and Records Administration

The Hon. Janet Johnson

Clerk of the Arizona Supreme Court

The Hon. Michael K. Jeanes

Clerk of the Court

and

Ms. Melanie K. Fay

Public Records Administrator, Maricopa County Superior Court Clerk of Court's Office

Thanks to...

The Hon. Anita Escobedo

Clerk of the Court, Gila County Superior Court

Ms. Sarah Bennett, Mr. Forrest Bennett, Mr. Paul Coulombe

Gila County Superior Court, Court Administration, IT Dept.,

The Hon. Terry L. Chandler

Judge of the Superior Court (ret.)

The Hon. Douglas Reyes

United States District Court Judge

Ms. Carolyn Clark

Attorney at Law

Ms. Amanda McGee

Attorney at Law

Mr. Jonathan Manley

Attorney at Law

David S. Tanenhaus

James E. Rogers Professor of History and Law, William S. Boyd School of Law,
University of Nevada, Las Vegas

Thomas N. Langhorne, Esq.

Judicial Institute Director, Utah Judicial Institute

Thanks to...

Jennifer Amos

Administrative Assistant to
Hon. Glenn A. Grant, Acting Administrative Director
Administrative Office of the New Jersey Courts

Donald D. Goodnow, Esq.

Director, Administrative Office of the New Hampshire Courts

The Hon. Linda Copple Trout

Interim Administrative Director of the Courts, State of Idaho Judicial Branch. Boise, Idaho

Fred O. Knipe, Tucson, Arizona

Marcie Luhman

Administrative Assistant for Court Services
Administrative Office of the Nebraska Supreme Court

Acknowledgments:

The definitive history of *In the Matter of Paul & Marjorie Gault* is Prof. Tanenhaus' [The Constitution Rights of Children, In re Gault](#) and *Juvenile Justice*, 2011, published by the University Press of Kansas.

The Oyez Project at Chicago-Kent,
A multimedia archive devoted to the Supreme Court of the United States and its work.

“The Juvenile Court at 100 Years: A Look Back,” by Robert E. Shepherd, Jr.;
JUVENILE JUSTICE, December 1999, published by the Office of Juvenile Justice and Delinquency Prevention.

[Adversity Is My Angel](#), *The Life and Career of Raul H. Castro*
Raul H. Castro and Jack L. August, Jr.

“Rethinking the Road to Gault: Limiting Social Control in the Juvenile Court 1957-1972,”
by Daniel A. Ross, *Virginia Law Review*, Vol. 98, No. 2 (April 2012), pp. 425-477

“The Juvenile Court,” by Julian Mack, 23 *Harvard Law Rev.* 104, 119–20 (1909).

“The Early History of the [Juvenile] Court,” Sanford J. Fox, *The Future of Children* –
Winter 1996; *The Juvenile Court*, Vol. 6 • No. 3.

“Gault and the Future of Juvenile Law,” Dorsen & Reznick; *Family Law Quarterly*, Dec. 1967

“Juvenile Court - a Labyrinth of Confusion for the Lawyer,” John Malloy, *University of Arizona Law Review*, Vol. 4, No. 1, Fall 1962.

Maricopa County Superior Court, Article by Doug Rayes; *The Judicial Branch News*, Volume 4, Issue 11 November 2009

Photographs: wikimedia.org/Wikipedia: Earl Warren and Abe Fortas

Gertrud S., 1998, “Interview by USC Shoah Foundation Institute for Visual History and Education, University of Southern California,” New York City, New York, United States, January 15, 1998.

“Boy in Court,” 1940, The National Probation Association

Patricia Puritz, Executive Director, The National Juvenile Defender Center

Wallace J. Mlyniec, *In re Gault at 40: The Right to Counsel in Juvenile Court -- A Promise Unfulfilled*, 44 *Crim. L. Bull.* 371-412 (2008).

Bogen, David, Justice Versus Individualized Treatment in the Juvenile Court, *Journal of Criminal Law and Criminology*, Vol. 35, Issue 4, 1945

Idaho State Historical Society; IHS 77-2.26; Idaho Supreme Court 1908. Isaac Sullivan, George Steward, James Ailshie.”

Illinois Supreme Courtroom 2014 photo by Mark Skube, Production Manager, Illinois State Bar Association