



June 3, 2022

FYI: IN RE T.B.

The Georgia Supreme Court holds that in a delinquency proceeding, a child may assert an insanity or delusional-compulsion defense under OCGA §§ 16-3-2 or 16-3-3 when the child's delinquency charge is based on an allegation that the child committed "[a]n act ... designated a crime by the laws of this state." OCGA § 15-11-2 (19) (A).

In *In Re T. B.*, S22A0287 (June 1, 2022), the State filed a delinquency petition in juvenile court, alleging that appellant, who was then 16 years old, was a delinquent child. The petition charged appellant with aggravated assault on a peace officer, aggravated battery, two counts of obstruction of an officer, possession of less than an ounce of marijuana, two counts of possession of drug related objects, and two counts of criminal trespass. Following a detention hearing, the juvenile court ordered that appellant receive a psychological evaluation and be released the next day on house arrest with conditions. Before he was released, however, appellant was involuntarily hospitalized for several days, pursuant to OCGA § 37-3-41 (a), because he was experiencing symptoms of psychosis, including delusions.

A few months later, a psychologist performed a competency evaluation. The psychologist noted that appellant had previously been diagnosed with a plethora of psychological disorders, and diagnosed him with Schizophreniform Disorder, in Partial Remission. Nevertheless, the psychologist concluded that appellant understood the nature of the proceedings and he was capable of assisting his attorney with his defense. Based on the competency evaluation, the juvenile court found appellant competent to proceed.

Prior to the adjudication hearing, appellant filed a notice of intent to offer a defense of insanity or delusional compulsion and moved the juvenile court to order a forensic psychological evaluation to determine whether he was incapable of appreciating the wrongfulness of his acts when the incident occurred. The juvenile court ruled that insanity and delusional-compulsion defenses are unavailable in juvenile-court proceedings. The court reasoned that insanity is irrelevant in a delinquency proceeding because an insanity defense seeks to establish that a defendant is not "guilty," and delinquency proceedings do not adjudicate "guilt." The court further reasoned that the Juvenile Code does not expressly provide for an insanity defense, even though it refers to an alibi defense, and children do not have a constitutional right to raise an insanity defense in delinquency proceedings. Accordingly, the

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court prohibited appellant from asserting such defenses and denied his request for a forensic evaluation. Appellant appealed.

The Court noted that Georgia's Criminal Code incorporates two insanity defenses. First, OCGA § 16-3-2 recognizes a defense of insanity based on mental incapacity. Second, OCGA § 16-3-3 recognizes an insanity defense based on delusional compulsion. Both defenses are affirmative defenses.

The Court also noted that juvenile court proceedings are governed by the Juvenile Code, OCGA § 15-11-1 et seq. Therefore, to determine whether insanity defenses under OCGA §§ 16-3-2 and 16-3-3 are available to children charged with delinquency in juvenile-court proceedings, it must first turn to the Juvenile Code's text. And given that the Juvenile Code does not expressly address whether a child may raise an insanity or delusional-compulsion defense in a delinquency proceeding, the Court stated that it must carefully analyze the Code's text and structure to determine whether the "most natural and reasonable" interpretation of the statute affords children a right to assert such defenses.

After a thoughtful and thorough analysis of the text and structure of the Juvenile Code, the Court concluded that a child whose action is excused by reason of insanity or delusional compulsion under OCGA §§ 16-3-2 or 16-3-3 has not committed an "act ... designated a crime," and therefore has not committed a "delinquent act." OCGA § 15-11-2 (19) (A). Consequently, the Court held that a child defending against a charge of having committed a "delinquent act" based on an alleged violation of Georgia's Criminal Code must be permitted to raise a defense of insanity or delusional compulsion.

Accordingly, the Court found that the juvenile court erred in concluding that a child in a delinquency proceeding may never raise an insanity defense under OCGA §§ 16-3-2 or 16-3-3. Therefore, the Court vacated the juvenile court's order denying appellant's motion seeking a forensic psychological evaluation to determine whether he was insane or under a delusional compulsion when the acts underlying his delinquency charge occurred.

In so holding, the Court noted that although the juvenile court concluded that children do not have a constitutional right to raise an insanity defense in delinquency proceedings, it did not need to address the issue because of its conclusion that Georgia's Juvenile Code permits children to raise an insanity defense.

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