

OREGONIAN V. DEIZ

## HANDOUT

### JUVENILE LAW - Public Hearings For Juveniles

State ex rel Oregonian Publishing Company v. Deiz, 389 Or.  
277 (1980)

## FACTS

A 13 year old girl was charged with killing a younger child by drowning her. As was usually done in juvenile matters, the juvenile court had not released to the news media the name of the girl charged with the crime. But a newspaper discovered the name and published it. A judge hearing the case barred the reporters from the courtroom because a state statute said the public must be excluded from juvenile proceedings unless the child or her/his parents ask for a public hearing or unless the judge finds someone has "a proper interest in the case or the work of the court." The girl and her parents wanted the public and press excluded from the hearing. The reporter and publisher of the paper asked the state supreme court to order the judge to let them attend the juvenile hearing for two reasons: (1) because the public had "a proper interest" in the case in that they have a right to be informed about the workings of the juvenile justice system; and (2) because the state constitution says "no court shall be secret."

## ISSUE

Should juvenile hearings be closed to the public and press and why?

## HANDOUT ANSWER

### DECISION

No. The Oregon Supreme Court ruled that the statute excluding the public from juvenile hearings is a violation of the Oregon Constitution. Oregon's Constitution, in addition to providing a right to a public trial similar to the 6th Amendment of the U. S. Constitution, also provides that "no court shall be secret." This section is not a right granted to the defendant which may be waived at that person's request, but is a prohibition against secret court proceedings limited only by a judge's power to exclude those who attempt to interfere with or obstruct the proceedings.

The dissent said that privacy is needed to promote the goals of juvenile justice system and that publicity could hamper a juvenile's rehabilitation. Citing as examples filiation and guardianship hearings and hearings on admissability of evidence in rape trials, the dissent draws a distinction between "secret" court proceedings and "private ones; private proceedings should be allowed "in the interests of justice" when the constitution prohibits secret courts.

No. 61—June 18, 1980

IN THE SUPREME COURT OF THE  
STATE OF OREGON

STATE *ex rel* OREGONIAN  
PUBLISHING COMPANY, et al,  
*Plaintiffs-Relators,*

*v.*

DEIZ,  
*Defendant.*

(SC 26832)

Original proceeding in mandamus.

Argued and submitted March 26, 1980.

James T. Marquoit, of Saxon & Marquoit, Portland,  
argued the cause and filed the brief for defendant.

James H. Clarke, of Spears, Lubersky, Campbell &  
Bledsoe, Portland, argued the cause for plaintiffs-  
relators. With him on the briefs were Michael G.  
Holmes and Frank M. Parisi, Portland.

James A. Redden, Attorney General, Walter L. Bar-  
rie, Solicitor General, and Karen H. Green, Assistant  
Attorney General, Salem, filed the brief *amicus curiae*  
on behalf of the State of Oregon.

Charles F. Hinkle and E. Walter Van Valkenburg,  
Portland, filed the brief *amicus curiae* on behalf of  
American Civil Liberties Union of Oregon, Inc.

Before Denecke, Chief Justice, and Howell, Lent,  
Linde, Peterson and Tanzer, Justices.

DENECKE, C. J.

Peremptory writ to issue.

Lent and Linde, JJ., filed concurring opinions.

Howell, J., filed a dissenting opinion.

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## JUVENILE LAW - Public Hearings For Juveniles

Should juvenile hearings be open to the public and press?

Oregonian Publishing Company v. Deiz

289 Or. 277, 613 P.2d 23 (1980)

Oregon Supreme Court

### FACTS

A 13 year old girl was charged with killing a younger child by drowning her. As was usual in juvenile matters, the juvenile court had not released to the news media the name of the girl charged with the crime. A newspaper found out the name and published it. A judge hearing the case barred reporters from the courtroom because a state statute said the public must be excluded from juvenile proceedings unless the child or his/her parents ask for a public hearing or unless the judge finds someone has "a proper interest in the case or the work of the court."

The girl and her parents wanted the public and press excluded from the hearing. The reporter and publisher of the paper asked the state Supreme Court to order the judge to let them attend the juvenile hearing.

### JUDICIAL HISTORY

This mandamus action is original in the Supreme Court. A mandamus is a writ ordering a judicial officer to perform a particular act.

### ISSUE

May the public and press be barred from a juvenile hearing at the discretion of the trial judge?

### ARGUMENTS

#### Plaintiff:

The plaintiffs first contend that they are entitled to attend the hearings under the "proper interest" provisions of ORS 419.498(1). That statute is printed on page 279 of the opinion. The press has a proper interest in this case because it is important for the public to be informed and the press informs the public.

In the alternative, ORS 419.498(1) violates Article I, §10 of the Oregon Constitution. That section is printed at the top of page 282 of the opinion.

Defendant:

Because of the harm that may be caused to juveniles by public trials, ORS 419.498(1) grants broad authority to the juvenile court judge to control access to the courtroom.

Art. I, §10 of the Oregon Constitution grants the right to a public trial to the litigants and not to the public. Thus the judge can close the courtroom if the child requests that it be closed.

Further, the public has no "proper interest" because the parents may act as "judicial monitors", eliminating the need for the press to act as the public's watchdog.

DECISION.

The order of the defendant judge barring plaintiffs from the hearings is invalid as contrary to Art. I, §10.

OPINION

MAJORITY

ORS 419.498(1) offers no guidance on the issue of what constitutes a "proper interest." That omission persuades us that the legislature intended that the juvenile judge have wide latitude in determining when a person seeking admission to the proceedings has a "proper interest." The defendant judge acted within her statutory powers in excluding the press in this case.

However, the Oregon Constitution provides flatly that no court shall be secret and justice shall be administered openly. The statute is contrary to this provision of the Constitution. Therefore, the trial judge is directed to permit the press to attend.

This does not apply to all kinds of judicial proceedings such as jury deliberations. Further, the trial court retains the right to control access by members of the press or public who would overcrowd the courtroom, attempt to interfere in the proceedings or otherwise obstruct the proceedings.

### DISSENT

It was not the intention of the framers of the Oregon Constitution to prohibit the legislature from closing certain trials or hearings to the public and press in the interest of justice.

On page 294 of the opinion, Justice Howell lists a few examples of court proceedings where, in the interests of justice, the legislature has determined the press and public may or should be excluded.

### APPLICATION

- (1) Should any judicial proceedings be closed to the public and press?
- (2) What arguments can you make that juvenile proceedings should be closed to the press and the public?
- (3) What interests are served by open juvenile proceedings?
- (4) Does the presence of parents in the courtroom substitute for the scrutiny of the public and the press?
- (5) Should some juvenile proceedings be closed because of the nature of the crime involved?

JUVENILE DEPT. V. GAGE

## HANDOUT

### Juvenile Law - Miranda Rule

Juvenile's right to be given Miranda warnings before being questioned by school officials.

## FACTS

School officials discovered one thousand school lunch tickets were missing from the student store in a school in Clackamas County. The principal did not give Gage Miranda warnings before questioning him about the theft.

Gage contends his statements should be excluded from the juvenile hearing since he was not "read his rights."

## QUESTIONS

1. Is the principal a private person or an arm of the police?
2. Is the questioning of a student by a principal an "arrest" situation which requires that the principal inform the student of his Miranda rights?
3. What are the elements of a Miranda warning?

HANDOUT ANSWERS

1. The court had previously held that the principal was a public official and not a private person.
2. Even though the principal was an agent of the state, Gage was no more "under arrest" than any child who was being forced to attend school. Therefore, Gage was not in custody in a criminal sense and Miranda warnings were not necessary.
3. A Miranda warning should include the following elements:
  1. You have the right to remain silent.
  2. Anything you say can and will be used against you.
  3. You have the right to talk to an attorney and to have him/her present while you are being questioned.
  4. If you cannot afford a lawyer, one will be appointed to represent you before questioning.
  5. You can exercise these rights at any time. Even if you have decided to answer questions, you may change your mind and stop at any time.