

June 17, 1943

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ARIZONA ATTORNEY GENERAL

Mr. Max T. Layton  
County Attorney  
Graham County  
Safford, Arizona

Dear Mr. Layton:

Your letter of the 14th instant received.

Your case involves the possible question of conflict of jurisdiction in criminal actions wherein defendant is a juvenile within the meaning of the Act of 1941, (Chapter 30), establishing and enacting a Juvenile Code. The situation presented in your letter discloses facts of a different nature than those being presented in the Caroline Fay Durham case now in the Supreme Court.

While we cannot undertake to make an opinion seeking to, in any manner, direct the court in the determination of a judicial question, we are at liberty to present to you for submission to the court, if you desire, our position and interpretation of the law for consideration by the court when the matter of jurisdiction is presented for argument.

The Superior Court, sitting as a Juvenile Court, obtains jurisdiction in juvenile matters in two different ways, under the Constitution and the said Act of 1941; firstly, by petition generally under Section 7-a of the Act, and secondly, by the justice of the peace or magistrate before whom a criminal action is pending, certifying to the Superior Court the cause with the fact that the defendant is a juvenile and upon such certification the Superior Court sitting as a Juvenile Court may, in its discretion, suspend criminal prosecution, as provided for in Section 7-b of the Act, and in accordance with Article 6, Section 6 of the Constitution of Arizona.

This latter provision of our Constitution provides that said Superior Courts "shall have the power, in their discretion, to suspend criminal prosecutions" in juvenile cases.

Section 5 of the Juvenile Act of 1941, in the light of the Constitution, must reasonably be understood to apply to ordinary juvenile matters in which the power of the court is invoked in the manner and by the individuals and officers named in Section 7-a of the Act, and the limitation of jurisdiction on the court would have no application nor act as a limitation of jurisdiction on a Superior Court obtaining jurisdiction under the Constitution, as cited; and the jurisdiction of the court attached under the procedure provided for in Section 7-b of the said Act, in criminal prosecutions against juveniles.

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Graham County Attorney

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In the case under consideration the Superior Court of Graham County having obtained jurisdiction of the criminal action and the juvenile defendant in the manner as provided by the Constitution and the said Act of 1941, if the Court as a Juvenile Court in said Graham County should in its discretion suspend criminal prosecution in the particular criminal action pending within its jurisdiction, then under the Constitution "The powers of said judges to control such children shall be as prescribed by law." This invokes the court's further action in such manner as he deems proper under the said Act of 1941.

We, therefore, conclude:

That the Superior Court of Graham County, as a Juvenile Court, having obtained jurisdiction of the criminal action and the juvenile defendant by certification of the cause and by operation of the law, has the authority to judicially determine, in its discretion, whether such criminal prosecution against the juvenile in that case should be suspended; and if it so determines, the jurisdiction of the court continues for the full and complete determination of the control of such juvenile as prescribed by law and the said Act of 1941.

No previous judgment, order or commitment of another court in another case can deprive your court of jurisdiction once obtained in the manner as stated.

However, we may further observe, no order of your Superior Court can vacate any lawful commitment of the Superior Court of Pima County ordering confinement of said juvenile in Fort Grant School. A release of said juvenile from such commitment can only be had under Section 21 of the said Act of 1941. A stay of proceedings in the present case now before your court would of a necessity result in the return of the juvenile to Fort Grant under the commitment of the Pima County Superior Court, still in force and effect.

Respectfully,

JOE CONWAY  
Attorney General

EARL ANDERSON  
Chief Assistant  
Attorney General

THOMAS J. CROAFF  
Assistant Attorney General