

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Bail is always a matter for the determination of the judicial officer, whoever he may be.

DELEGATE JAMES (presiding): Delegate Hargrove.

DELEGATE HARGROVE: I think my question is, is excessive bail not a separate and distinct question of a violation of a right, as opposed to the question of setting bail, period?

In other words, setting a bail or denying a bail, and the question of excessive bail, are two different propositions that pertain to the rights of individuals.

DELEGATE CHILD: I do not think so.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: Delegate Child, you have referred several times in your discussion and in answering questions to the potential danger of this circumstance, and you have cited the fact that people who might go out pending trial and commit additional crimes ought perhaps to be retained at the discretion of the court.

You are aware, I am sure, that for all but capital cases in this State right now a person is entitled to the setting of bail in some amount.

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: In judgment cases?

DELEGATE BOTHE: Using your example of the individual who has assaulted someone, and who the court might believe would commit further dangerous acts if released on bail.

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: You say a person in capital cases is entitled to bail now?

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: No, in all but capital cases, you as a judge would have to set bail in some amount. Is that not correct?

DELEGATE CHILD: That is right.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: If the man who is appearing before you happens to be a man of means, you would have to release him on bail at some amount, would you not?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: If it was not a capital case, I would say so, yes.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: Is it your belief that because a man has no money to pay the professional bondsman to release him, that he should be held for that reason alone?

DELEGATE CHILD: No.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: How then would you distinguish the two situations, where you have a dangerous individual who has funds to pay a bondsman and a dangerous individual who does not?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Well, in either case, bail would be set. In two like cases the bail would be set possibly at the same amount. If one person pays it he could be released. If the other person could not, he certainly should not be turned loose. Maybe the State could never apprehend him, and maybe it might take several years and thousands of dollars to apprehend him.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: It is your view, however, if he is a rich, dangerous man, he should be released; if he is a poor man he should be incarcerated?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: Not at all. The treatment is the same.

DELEGATE JAMES (presiding): Delegate Bothe.

DELEGATE BOTHE: You mean both individuals remain in jail or both go free, or one does and the other does not?

DELEGATE JAMES (presiding): Delegate Child.

DELEGATE CHILD: One does and the other does not, because one can furnish the bail and the other cannot.