

11-5-1969

11-05-1969 Justice Black, Dissenting

Hugo L. Black
US Supreme Court Justice

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To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas
Mr. Justice Marshall

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SUPREME COURT OF THE UNITED STATES

No. 15.—OCTOBER TERM, 1969

From: Black, J.

Clarence DeBaeker, Appellant,
v.
Homer Brainard, Sheriff of
Dodge County, Nebraska.

On Appeal From the
Supreme Court of
Nebraska.

Circulated **NOV 5 1969**

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[October — 1969]

MR. JUSTICE BLACK, dissenting.

In February 1968 appellant, who was then 17 years old, was charged under the laws of Nebraska with being a "delinquent child"¹ because he had a forged bank check which he intended to use for his own purposes.² At the hearing on this charge he asked for a jury trial, arguing this was a right guaranteed him by the Sixth Amendment to the Constitution and that a statute prohibiting juries in "delinquency" proceedings³ was therefore unconstitutional.

¹ Neb. Rev. Stat. § 43-201 (4) provides that "Delinquent child shall mean any child under the age of eighteen years who has violated any law of the state or any city or village ordinance."

² The State charged that appellant "unlawfully, feloniously and knowingly [had] in his possession and custody a certain false, forged and counterfeited bank check . . . with the intent . . . to utter and publish said false, forged and counterfeited bank check as true and genuine, knowing the same to be a false, forged and counterfeited bank check, and with the intent then and there and thereby to prejudice, damage and defraud . . . , well knowing the same to be falsely made, forged and counterfeited, contrary to the form of the Statutes in such cases made and provided, and against the peace and dignity of the State of Nebraska." App. 1-2. It is undisputed that such acts constitute the crime of forgery under state law. Neb. Rev. Stat. § 28-601 (2).

³ Neb. Rev. Stat. § 43-206.03 provides that juvenile hearings "shall be conducted by the judge without a jury in an informal manner"