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Florida Supreme Court limits use of shackles on juvenile defendants

Restraints can be used if judge rules youth is likely to be violent

By Carol Marbin Miller, The Miami Herald

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Calling the widespread shackling of juveniles in court "repugnant, degrading [and] humiliating," the Florida Supreme Court issued a new rule Thursday that forbids the restraint of juvenile offenders unless a judge finds that the youth is likely to be violent.

In a lengthy amendment to the rules that govern Florida's juvenile court system, the state's highest court adopted the recommendations of a national advocacy group, the National Juvenile Defender Center, which argued that the wholesale shackling of juveniles in Florida is contrary to the purpose of rehabilitating youth.

The new rules reverse a longstanding practice in many courthouses — including Broward and Palm Beach counties — of permitting juvenile defendants to be handcuffed and leg-shackled for all court appearances, regardless of whether they are thought to be dangerous.

In [Broward County](#), Public Defender Howard Finkelstein said, juveniles facing a court appearance are "paraded" through the courthouse in shackles.

Thursday's decision comes at a time of uncertainty for juvenile justice systems in many states.

As Florida judges weighed the safety of courtroom staff against the rights of juvenile defendants, the U.S. Supreme Court is considering whether sentencing adolescents to life in prison without parole for non-homicide convictions violates the constitutional ban on cruel and unusual punishment.

The U.S. Supreme Court held oral arguments on life imprisonment for juveniles in two Florida cases last month.

Florida's Supreme Court ruling updates and amends the rules governing courtroom procedures routinely, and the amendment discouraging the use of restraints is among several revisions to juvenile court proceedings adopted Thursday.

In an 18-page order, the high court said juveniles appearing in court should only be handcuffed or shackled after a determination by a judge that restraints are necessary to ensure courtroom safety and security.

"We find the indiscriminate shackling of children in Florida courtrooms... repugnant, degrading, humiliating, and contrary to the stated purposes of the juvenile justice system and to the principles of therapeutic justice, a concept which this court has previously acknowledged," the state high court wrote.

The new rules were approved by all seven justices, though Justice Charles T. Canady partially dissented

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from the majority.

"While I agree that juveniles should not be chained to one another in the courtroom or restrained in any other way that would interfere with their ability to have meaningful access to counsel," Canady wrote, he did not favor any "blanket presumption against the use of any kind of restraints."

By "imposing such a presumption against the use of restraints on juveniles who have been placed in detention, the new rule will unduly hamper the trial court's ability to maintain the safety of court personnel, the juveniles themselves, and any bystanders in the courtroom," Canady added.

Public defenders and children's advocates praised Thursday's decision, and administrators at the state Department of Juvenile Justice vowed to work with judges and courthouse leaders throughout the state to put the new guidelines into effect.

"The court has done the right thing," said Bernard Perlmutter, a law professor who leads the University of Miami's Children & Youth Law Clinic.

"Our whole system of juvenile justice is predicated on the notion that children are works in progress — even children who are in trouble with the law," he added. "Shackling sends the wrong message."

At the urging of Perlmutter and others, including Miami-Dade Public Defender Carlos Martinez, juvenile judges in Miami agreed in September 2006 to limit the use of restraints to cases where courtroom staff may be at risk of harm, Martinez said.

"This is a great day for children in the juvenile courts where dignity in courtrooms throughout the state has been restored by the Supreme Court, and where judges can focus on rehabilitation and providing therapeutic justice," said Martinez, who lobbied heavily to extend restrictions on restraint statewide.

Martinez said he is aware of only one case in the past 3½ years where a juvenile defendant in Miami had to be subdued following an outburst. During that time, he said, about 15,000 juveniles have come through Miami-Dade's delinquency court system.

The effects of the new rule will be more far-reaching in Broward and other parts of the state where judges still routinely restrain youthful offenders.

"Anybody who has ever had a child, or even met a child, knows that it would be severely and emotionally traumatic to shackle a child and parade him through public corridors in a courthouse," Finklestein said. "This decision by the Supreme Court leaves only one question unanswered: Does anybody at DJJ know anything about kids?"

Replied Frank Penela, a DJJ spokesman: "I beg to differ. We are committed to the health, safety and well-being of the kids in our care."

"DJJ will, of course, adhere to the Supreme Court's adoption of this new rule and its provisions," Penela added. "Our detention superintendents will coordinate with the respective juvenile court judges in each circuit for operational preferences — and how the judges want this procedure to be implemented in their courtrooms."

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