

## Year 2004 Case Summaries

By

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***The social history report can be considered by the juvenile court judge without being formally admitted into evidence [In re D.W.D.] (4-2-20).***

On April 22, 2004, the Fort Worth Court of Appeals held that the juvenile court judge at disposition can consider the information contained in the social history report even if the report is not formally admitted into evidence.

04-2-20. In the Matter of D.W.D., UNPUBLISHED, No. 2-03-015-CV, 2004 WL 868681, 2004 Tex.App.Lexis \_\_\_\_ (Tex.App.-Fort Worth 4/22/04) Texas Juvenile Law (5th Ed. 2000).

Facts: D.W.D., a juvenile, was adjudicated to have engaged in delinquent conduct and was committed to the Texas Youth Commission (TYC) for a term not to exceed five years. D.W.D. appeals from the disposition phase only.

The parties are familiar with the facts of this case, and the applicable law is well-settled.

In his first issue, D.W.D. contends that the evidence is factually and legally insufficient to show that (1) reasonable efforts were made to prevent or eliminate the need to remove the child or to make it possible for the child to return home and (2) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation. Tex. Fam.Code Ann. § 54.04(i)(1)(B), (C) (Vernon Supp.2004). Having reviewed the evidence under the applicable standard of review, [FN2] we conclude that there is some evidence supporting the trial court's findings and that this evidence is not so weak, or so overwhelmed by evidence to the contrary, that a new trial should be ordered. We overrule D.W.D.'s first issue.

FN2. In re C.J.H., 79 S.W.3d 698, 703 (Tex.App.-Fort Worth 2002, no pet.) (in juvenile disposition, civil standards of factual and legal sufficiency are used to determine if abuse of discretion occurred).

In his second issue, D.W.D. contends that the trial court erred by considering the two prior offenses for which he was previously placed on probation. D.W.D. concedes, however, that "[h]ad the social history report been admitted and [had] it recited these prior offenses, this would be a moot argument." D.W.D.'s social history report, which included these two prior offenses, was considered by the trial court. Under family code section 54.04(b), the trial court may rely on a juvenile's social history report in making a disposition. See Tex. Fam.Code Ann. § 54.04(b); In re J.K.N., 115 S.W.3d 166, 171-72 (Tex.App.-Fort Worth 2003, no pet.); In re A.F., 895 S.W.2d 481, 485-86 (Tex.App.-Austin 1995, no writ). There is no requirement that the report be introduced into evidence before the trial court may consider it. See In re J.A.W., 976 S.W.2d 260, 263 64 (Tex.App.-San Antonio 1998, no pet.) (court could consider section 54.04(b) reports that neither side offered into evidence); see also A.F., 895 S.W.2d at 486 (social history report not subject to strict application of the rules of civil evidence). We overrule D.W.D.'s second issue.

Having overruled both of D.W.D.'s issues, we affirm the trial court's judgment.

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