
YEAR 2005 CASE SUMMARIES

By
The Honorable Pat Garza

Associate Judge
386th District Court
San Antonio, Texas

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Tex. Fam. Code Ann. § 59.014 does not permit a juvenile to bring an appeal which is based upon the failure of the trial court to make a disposition pursuant to the sanction level guidelines. [In The Matter of C.E.F.](05-2-09)

On February 17, 2005, the Eastland Court of Appeals held that the Trial Court did not abuse its discretion in committing child to TYC and *Tex. Fam. Code Ann. § 59.014* does not permit a juvenile to bring an appeal which is based upon the failure of the trial court to make a disposition pursuant to the sanction level guidelines.

05-2-09. In the Matter of C.E.F., MEMORANDUM, No. 11-04-00108-CV, 2005 Tex.App.Lexis 1272 (Tex.App.– Eastland 2/17/05).

Facts: The State of Texas filed a petition which alleged that C.E.F. engaged in acts of delinquent conduct, and an attorney was appointed to represent him. Appellant was joined by his mother and by his attorney in waiving his right to a trial by jury and in waiving his right to have the proceedings recorded. Appellant and his attorney also joined in a stipulation of evidence which judicially admitted the acts of delinquent conduct which had been alleged.

The Adjudication Hearing

On February 11, 2004, the trial court found that appellant engaged in acts of delinquent conduct and set the cause for a disposition hearing at a later date. Appellant does not appeal his adjudication. [*2]

The Disposition Hearing

On March 3, 2004, the trial court found that the best interest of the child and of the community would be served by committing appellant to the care, custody, and control of the Texas Youth Commission. Relevant portions of the "Order of Commitment" read as shown:

I find that on August 19, 2003, Juvenile committed the offense of Aggravated Assault with a Deadly Weapon, and on May 21, 2003 Juvenile committed the offense of Resisting Arrest....The best interest of the child and the best interest of society will be served by committing him to the care, custody, and control of the Texas Youth Commission, for the following reasons:

1) All reasonable efforts have been made to rehabilitate the child through less restrictive means.

- 2) All local resources have been exhausted.
- 3) There is no family member who can provide the level of supervision the child requires.
- 4) The Texas Youth Commission can provide the discipline, educational guidance, and other opportunities needed for the rehabilitation of the child.

Appellant presents one issue for appellate review, arguing that the trial court abused its discretion in committing [*3] him to the Texas Youth Commission. Appellant's argument is based upon the sanction level guidelines which are found in *TEX. FAM. CODE ANN. § 59.003* (Vernon Supp. 2004 - 2005).

Held: Affirmed

Memorandum Opinion: The family code does not permit a juvenile to bring an appeal which is based upon the failure of the trial court to make a disposition pursuant to the sanction level guidelines. *See TEX. FAM. CODE ANN. § 59.014* (Vernon Supp. 2004 - 2005); *see also In the Matter of C.C., 13 S.W.3d 854, 858 (Tex.App. - Austin 2000, no pet'n)*. Appellant's issue for appellate review is overruled.

We need not discuss the medical records and psychiatric reports which were before the trial court. The "Social History" which was prepared by the Taylor County Juvenile Probation Department shows that appellant had a "lengthy history of mental illness" and that the department felt that his "needs would best be met in a secure, structured environment" which was equipped to handle such high risk behavior. Appellant's adjudication for aggravated assault with a deadly weapon involved an incident at Abilene High School when he threatened his teacher and her class with a pair of scissors. The record [*4] does not support appellant's claim that the trial court abused its discretion in committing him to the custody of the Texas Youth Commission.

Conclusion: The judgment of the trial court is affirmed.