
YEAR 2005 CASE SUMMARIES

By
The Honorable Pat Garza

Associate Judge
386th District Court
San Antonio, Texas

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Admonishments required for adjudication pleas do not apply to modification hearings. [In the Matter of K.L.S.](05-4-1)

On August 18, 2005, the Corpus Christi Court of Appeals held that there is no requirement that the admonishments required for acceptance of guilty pleas be given at a hearing on a motion to modify, because the original admonitions from the adjudication hearing carry over into the disposition.

05-4-1. In the Matter of K.L.S., MEMORANDUM, No. 13-04-397-CV, 2005 Tex.App.Lexis 6656 (Tex.App.— Corpus Christi, 8/18/05).

Background: Appellant, appeals a court order modifying his disposition by committing him to the Texas Youth Commission. He raises claims of failure to admonish and abuse of discretion.

Held: Affirmed.

Facts: In his first issue, appellant claims the trial court committed a fundamental error by failing to admonish him, as required by statute, of the direct consequences that would result if he pled true. Appellant cites *Texas Family Code section 54.03(b)*, which requires a juvenile court judge in an adjudication hearing to explain to the child and his parent the allegations, the nature and possible consequences of the proceedings, and his rights and privileges. See *TEX. FAM. CODE ANN. § 54.03(b)* (Vernon Supp. 2004-05). However, as noted in appellant's brief, the hearing was a modification hearing, not an adjudication hearing.

Memorandum Opinion: Modification hearings are governed by *section 54.05*, which does not enumerate the same requirements as those set out in *section 54.03(b)(6)* for a juvenile court judge. See *TEX. FAM. CODE ANN. § 54.05* (Vernon Supp. 2004-05). We find persuasive authority from our sister courts of appeal that the admonishments required by *section 54.03* do not apply to modification hearings. See *In re S.J.*, 940 S.W.2d 332, 334 (Tex. App.-San Antonio 1997, no writ) ("S.J. concedes that there is no requirement that the admonishments required for acceptance of guilty pleas be given at a hearing on a motion to modify, because the original admonitions from the adjudication hearing carry over into the disposition."); *Murphy v. State*, 860 S.W.2d 639, 643 (Tex. App.-Fort Worth 1993, no writ) ("The hearing to modify disposition is not a new adjudication of delinquency under 54.03."). Appellant does not complain the trial court failed to satisfy the requirements of the applicable section, *section 54.05*.

Conclusion: We therefore find no fundamental error as claimed by appellant. This issue is overruled.

Abuse of Discretion Issues Omitted.

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