
YEAR 2005 CASE SUMMARIES

By
The Honorable Pat Garza

Associate Judge
386th District Court
San Antonio, Texas

[2005 Summaries](#) [2004 Summaries](#) [2003 Summaries](#) [2002 Summaries](#) [2001 Summaries](#) [2000 Summaries](#) [1999 Summaries](#)

A trial court lacks jurisdiction to commit a child to TYC when the child's probation has expired and there is no order in writing and signed by the trial court extending the probation. [In the Matter of P.B.B.](05-4-10)

On September 15, 2005, the Eastland Court of Appeals reversed a TYC commitment, holding that the trial court lost jurisdiction because a docket sheet entry extending appellant's probation was insufficient, the order extending jurisdiction (probation) must be in writing and signed by the judge.

¶ 05-4-10. **In the Matter of P.B.B.**, MEMORANDUM, No. 11-04-00061-CV, 2005 Tex.App.Lexis 7651 (Tex.App.— Eastland, 9/15/05).

Facts: On April 5, 2001, appellant was placed on juvenile probation. Appellant was to remain on probation until April 4, 2002. On June 14, 2001, the State filed a motion to modify appellant's disposition and for commitment to the Texas Youth Commission. The juvenile court granted the motion and ordered that appellant's probation be extended an additional 12 months until April 6, 2003. On October 4, 2001, the State filed another motion to modify appellant's disposition and for commitment to the Texas Youth Commission. There is no evidence in the record that any action was taken on this motion.

The State filed another motion to modify appellant's disposition and for commitment to the Texas Youth Commission on April 10, 2002. On May 9, 2002, the trial court ordered that appellant be committed to the Texas Youth Commission. On May 14, 2002, appellant filed a motion for new trial, arguing that the trial court's May 9 order was contrary to the law and not supported by the pleadings and evidence. The trial court granted the motion for new trial on July 17, 2002, thus invalidating the prior order. A new disposition hearing was set for July 18, 2002. There is no evidence in the record of what took place at that hearing, other than a notation on the court's docket sheet, "Prob until 18th birthday (10/20/04) original terms of probation." There is, however, no court order in the record.

No further action was taken until January 19, 2004, when the State filed another motion to modify appellant's disposition and for commitment to the Texas Youth Commission. The motion stated that, "on July 18, 2002, the child's probation was extended until October 20, 2004." On January 29, 2004, appellant filed a motion to dismiss motion to modify, alleging that there was no written order in the record "announcing the extension of probation on July 18, 2002." Appellant asserted that, consequently, the jurisdiction of the juvenile court expired on April 6, 2003. The trial court denied appellant's motion. On January 30, 2004, the trial court ordered that appellant be committed to the Texas Youth Commission.

Held: Reversed

Opinion: In two issues on appeal, appellant argues that (1) the trial court no longer had jurisdiction to modify appellant's disposition and (2) the search and seizure of the marihuana he was accused of possessing was illegal under the *Fourth Amendment of the United States Constitution*. n1

n1 We note that the State failed to submit a brief to this court in response to appellant's arguments.

Appellant first argues that the trial court did not have jurisdiction to modify the terms of his probation because appellant's probation expired prior to the modification hearing. We agree.

Juvenile courts possess only limited jurisdiction. See *In re D.C.*, 49 S.W.3d 26, 28 (Tex. App. - San Antonio 2001, no pet'n). The original jurisdiction of a juvenile court attaches when a petition is filed alleging that the child has engaged in delinquent conduct or conduct indicating a need for supervision and a summons is served on the child. *In re J.L.S.*, 47 S.W.3d 128, 130 (Tex.App. - Waco 2001, no pet'n). Unless the juvenile court decides to waive its exclusive jurisdiction and transfer the child to a district court, the court can continue to exercise jurisdiction over the child even after adjudication and disposition. *In re J.L.S.*, supra.

The juvenile court's continuing jurisdiction, however, is not without limits. In most cases, the court retains continuing jurisdiction to modify a juvenile's disposition only until the child reaches his 18th birthday or the child is earlier discharged by the court or operation of law. See *TEX. FAM. CODE ANN. § 54.05(a)* (Vernon Supp. 2004 - 2005). In other cases, the court may extend a period of probation at any time before the first anniversary of the date on which the period of probation expires provided that a motion for revocation or modification of probation is filed before the period of supervision ends. See *TEX. FAM. CODE ANN. § 54.05(l)* (Vernon Supp. 2004 - 2005). n2 A juvenile court also has jurisdiction to commit a child to the Texas Youth Commission for violations of probation that occurred prior to the expiration of the probationary term when the motion to modify is filed before the probationary term expires and the hearing is conducted without undue delay. *In re D.C.*, supra. In no case, however, is the court allowed to exercise unlimited jurisdiction over a juvenile.

n2 Subsection (l) was added to the Family Code by Act of June 2, 2003, 78th Leg., R.S., ch. 283, § 21, 2003 Tex. Gen. Laws 1221, 1227 (effective September 1, 2003).

When there is a time limit placed on a court's jurisdiction to act on a matter, orders must be in writing and signed by the trial court. *Westbrook v. State*, 753 S.W.2d 158, 159 (Tex.Cr.App. 1988). In this case, the court's time limit was April 6, 2003, the date on which appellant's probation was set to expire. An order to extend appellant's probation beyond that date needed to be in writing because, to be effective, an order must appear somewhere in the court's record. See *In re Fuentes*, 960 S.W.2d 261, 264 (Tex.App. - Corpus Christi 1997, no pet'n). Oral pronouncements are inadequate. See *In re Wal-Mart Stores, Inc.*, 20 S.W.3d 734, 740 (Tex.App. - El Paso 2000, no pet'n).

Before proceeding, we think it may be helpful to provide a brief summary of the critical dates in this case:

April 5, 2001 The court placed appellant on probation until April 4, 2002.

July 19, 2001 The court extended appellant's probation until April 6, 2003.

May 9, 2002 The court committed appellant to the Texas Youth Commission.

May 14, 2002 In response to the May 9 court order, appellant filed a motion for new trial.

July 17, 2002 The court granted appellant's motion.

July 18, 2002 The court held a new hearing to modify the terms of appellant's probation, but there was no written order in the record to provide evidence of what occurred at this hearing.

April 6, 2003 According to the last effective written order in the record, appellant's probation expired.

January 30, 2004 The court committed appellant to the Texas Youth Commission.

There is no written order in the record extending appellant's probation beyond April 6, 2003. The only evidence in the record of such an extension is a docket sheet entry on July 18, 2002. A docket sheet entry, however, does not suffice as a written order. *State v. Shaw*, 4 S.W.3d 875, 876 (Tex.App. - Dallas 1999, no pet'n). Docket sheet entries are inherently unreliable, lacking the formality of orders and judgments. *State v. Shaw*, supra at 878. Without a written order extending appellant's probation beyond April 6, 2003, we must conclude that the court's jurisdiction over appellant terminated on that date.

An order is void when a court has no power or jurisdiction to render it. *Urbish v. 127th Judicial District Court*, 708 S.W.2d 429, 431, 29 Tex. Sup. Ct. J. 202 (Tex.1986). We hold that, because appellant's probation expired on April 6, 2003, the court did not have jurisdiction to revoke appellant's probation on January 30, 2004. Therefore, the order committing appellant to the Texas Youth Commission is void. We sustain appellant's first issue on appeal.

Because we sustain appellant's first issue on appeal, we need not address his second issue.

Conclusion: The judgment of the trial court is reversed, and we render judgment that the order committing appellant to the Texas Youth Commission is set aside.