
YEAR 2006 CASE SUMMARIES

By
The Honorable Pat Garza

Associate Judge
386th District Court
San Antonio, Texas

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Trial court abused its discretion in allowing juvenile statement against him in trial. [Mavoides v. State](06-3-15)

On July 13, 2006, the Corpus Christi Court of Appeals held that there was an unjustifiable delay in notifying juvenile's parents two days after arrest, even though child's information about parent's whereabouts were not specific.

¶ 06-3-15. **Mavoides v. State**, MEMORANDUM, No. 13-04-00079-CR, 2006 Tex.App.Lexis 6089 (Tex.App.— Corpus Christi, 7/13/06).

Background: Appellant, Mitchell Mavoides, was indicted on April 3, 2003, on three counts of capital murder, n1 two counts of aggravated kidnapping, n2 two counts of aggravated robbery, n3 one count of burglary of a habitation, n4 and one count of tampering with evidence. n5 After a jury trial, appellant was found guilty on all counts except tampering with evidence, and was sentenced by the trial court on January 29, 2004, to life imprisonment for capital murder, twenty-five years for aggravated kidnapping and aggravated robbery, and ten years for burglary. On February 11, 2004, appellant timely filed his notice of appeal. The trial court has certified that this is not a plea-bargain case, and the defendant has the right of appeal. n6

Facts: At a pretrial suppression hearing, Detectives Stimmler and Revis, who were investigating the Parkers' homicide, testified that they received information from two female informants indicating that appellant may have been involved in the homicides. Officers Tovar and Gomez testified that they assisted with appellant's initial arrest, which occurred at approximately 10:50 p.m. The detectives also testified that after appellant was arrested, he was transported to the police station's designated juvenile processing floor, where they asked him for information regarding his parents' whereabouts. According to the detectives, appellant told them he was unaware of his parents' specific whereabouts. Judge Medary testified that she arrived at the station at approximately 11:30 p.m., asked appellant about his parents' whereabouts, and subsequently read him his rights. According to Judge Medary, appellant told her that his father was somewhere in Corpus Christi, though he was unsure of his father's specific whereabouts. As to his mother, appellant informed Judge Medary that she lived in New York but he was unsure as to how to contact her. Approximately three hours after appellant was taken into custody, and prior to any parental notification by authorities, he signed a statement admitting his involvement in the crime, but denying that he killed the Parkers. Approximately two days later, authorities located and notified his father concerning the charges against appellant.

Held: Affirmed, no reversible error

Memorandum Opinion: The record demonstrates that the detectives involved in the detention and

interrogation of appellant did not strictly adhere to the requirements of section 52.02(b). n27 Detectives knew appellant's father resided in Corpus Christi, and that his mother resided in New York. Nonetheless, Detective Stimmler made no attempt to contact appellant's mother prior to obtaining appellant's statement, nor did he ask appellant whether he desired to contact his mother. Additionally, detectives did not try to contact appellant's father between the time of appellant's arrest and when he provided them with a statement. Appellant's parents testified that had they been properly notified, they would have insisted that appellant consult an attorney prior to being interviewed by police. Although appellant was properly transported to an appropriate juvenile facility, there was an unjustifiable delay in notifying his parents, which, based on the attendant facts of this case, was inexcusable. Because the statement was obtained as a result of the detectives' violation of parental notification requirements, the statement was inadmissible at trial. n28 Therefore, the court abused its discretion in allowing the statement of appellant to be used against him at trial. n29 This Court must determine whether the admission of appellant's statement constitutes reversible error.

n27 *TEX. FAM. CODE ANN. § 52.02(b)*.

n28 *See id.*; *In re U. G.*, 128 S.W.3d 797, 799 (Tex. App.--Corpus Christi 2004, pet. denied) (concluding court abused its discretion in admitting juvenile statement because authorities failed to adhere to strict requirements of section 52.02).

n29 *TEX. FAM. CODE ANN. § 52.02(b)*; *In re U. G.*, 128 S.W.3d at 799.

A court of appeals must reverse a judgment based on an error such as this unless the court determines beyond a reasonable doubt that the error did not contribute to the conviction or punishment of the defendant. n30

n30 *See TEX. R. APP. P. 44.2(a)*.

At trial, other than the improperly admitted statement and appellant's rebuttal testimony, the State introduced substantial evidence that implicated appellant in the homicides. Celso Ramos, an inmate who was incarcerated with appellant, testified that appellant told him of his involvement in the homicides. According to Ramos, appellant told him that he was the one who shot Ms. Parker. Gregory Crum, an acquaintance of appellant, also testified that appellant told him that he took a vehicle and \$ 1500 from a man, tied the man up, put him in the truck, and later shot him. Considering other evidence tying appellant to the homicides, in particular, testimony of two independent witnesses, we conclude, despite admission of the improper statement, that the error did not contribute to the conviction or punishment of appellant. n31 Appellant's third issue is overruled.

n31 *See id.*

Conclusion: This court took a very strict view of §52.02(b) finding detective made no attempt to contact appellant's mother, nor did he ask appellant whether he desired to contact his mother. Additionally, he did not try to contact appellant's father between the time of appellant's arrest and when he provided them with a statement. Appellant's parents testified that had they been properly notified, they would have insisted that appellant consult an attorney prior to being interviewed by police.