

Review of Recent Juvenile Cases (2007)

by
The Honorable Pat Garza
Associate Judge
386th District Court
San Antonio, Texas

Failure of trial court to list findings for TYC commitment does not warrant reversal, but abatement of appeal and remand for submission of proper disposition order.[In the Matter of S.J.F.](07-3-9)

When a juvenile court order fails to list findings required by the Family Code, the appellate court will abate the appeal and remand with instructions for the trial court to render a proper disposition order specifically stating the reasons for such disposition.

¶ 07-3-9. **In the Matter of S.J.F.**, No. 04-06-00619-CV, 2007 Tex.App.Lexis 4742 (Tex.App.— San Antonio, 6/20/07).

Facts: S.J.F. pled true to the offense of burglary of a building, the trial court found the charge to be true and committed S.J.F. to TYC. At the conclusion of the disposition hearing, the trial court made the statutory findings required by *subsection 54.04(i)* and then with respect to the findings required by *subsection 54.04(f)* stated the following on the record: "I will order the child committed to the Texas Youth Commission in light of his record regarding his education and complying with conditions of probation." The trial court's Order of Disposition also includes the statutory findings required by *subsection 54.04(i)*. However, the order does not list any findings required by *subsection 54.04(f)*. The order only states the following: "The Court finds that this is the appropriate disposition for the following reason(s):" No reasons, however, are listed.

In one issue on appeal, S.J.F. contends the trial court abused its discretion when it committed him to TYC because the trial court failed to clearly state its reasons for the commitment as required by *subsection 54.04(f) of the Texas Family Code*.

Held: Abated and Remanded

Opinion: *Subsection 54.04(f)* provides that "[t]he court shall state specifically in the order its reasons for the disposition and shall furnish a copy of the order to the child." *TEX. FAM. CODE ANN. § 54.04(f)* (Vernon Supp. 2006). This subsection of the Family Code requires the court to articulate "clear, specific reasons for the disposition." *In re A.G.G.*, 860 S.W.2d 160, 162 (Tex. App.--Dallas 1993, no writ). The trial court is required to specifically state its reasons for the disposition to allow "an appellate court, on review, to determine whether the reasons given in the order are supported by the evidence or whether they are insufficient to justify the disposition made." *In re A.N.M.*, 542 S.W.2d 916, 919 (Tex. Civ. App.--Dallas 1976, no writ).

In this case, the trial court did not include any reasons in its order of disposition. Further, the trial court's statement at the conclusion of the hearing that S.J.F. would be committed to TYC "in light of his record regarding his education and complying with conditions of probation" is simply too unclear and ambiguous to allow meaningful review on appeal.

When a juvenile court does not comply with *subsection 54.04(f)*, we do not reverse for a new trial, but instead remand with instructions for the juvenile court to render a proper disposition order specifically stating the reasons for such disposition. See *TEX. R. APP. P. 44.4*; *In re S.S., No. 04-99-00806-CV, 2001 Tex. App. LEXIS 2315, 2001 WL 356963, at *3 (Tex. App.--San Antonio 2001, order)*; *In re K.K.H., 612 S.W.2d 657, 658 (Tex. Civ. App.--Dallas 1981, no writ)*.

Conclusion: We, therefore, abate this appeal and remand the cause to the trial court with instructions for the trial court to render a proper disposition order specifically stating the reasons for such disposition in compliance with *subsection 54.04(f)*.