Review of Recent Juvenile Cases (2008)

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

Trial Court can infer intent to damage building in arson adjudication.[In the Matter of H.A.G.](08-3-3)

On May 22, 2008, the Corpus Christi-Edinburg Court of Appeals held that after viewing the evidence in a neutral light, it was not so weak that the trial court's verdict seemed clearly wrong and manifestly unjust or that the verdict was against the great weight and preponderance of the evidence.

¶ 08-3-3. **In the Matter of H.A.G.,** MEMORANDUM, No. 13-07-00677-CV, 2008 WL 2154095 (Tex.App.---Corpus Christi-Edinburg, 5/22/08).

Facts: The State relied on the testimony of Trevino Vargas, III, to prove that H.A.G. acted intentionally. Vargas testified that he is the principal of the middle school where H.A.G. was enrolled as an eighth-grade student. Through his testimony, the State presented evidence that at approximately 3:20 p.m., ten minutes before the students were released from class, a student reported that smoke was coming from the girls' restroom. A female assistant principal entered the restroom and removed a trash can that had been set on fire. Once the trash can was removed, Vargas inspected the restroom. He testified that there was "quite a bit of smoke," that the hall smelled of smoke, and that there was black soot on the vents.

Through an investigation, Vargas discovered that H.A.G. and another student had been in the restroom at the time the fire was started. Vargas discovered a lighter in the other student's possession. The other student told Vargas that she brought the lighter to school for the purpose of starting the fire. Vargas stated she told him that, on the previous day, she and H.A.G. discussed bringing the lighter to school to start the fire. H.A.G. eventually told Vargas that she lit paper (either toilet paper or a paper towel) on fire and put it in the trash can.

Held: Affirmed

Memorandum Opinion: In this case, the trial court may have inferred H.A.G.'s intent to damage or destroy the building based on the following facts: (1) H.A.G. and another student planned to bring a lighter to school; (2) H.A.G. planned to start the fire; (3) H.A.G. started the fire in an empty bathroom; (4) H.A.G. started the fire approximately ten minutes before the school day ended; (5) H.A.G. did not report the fire when it was started or warn anyone that there was a fire when she returned to class; and (6) Vargas had to conduct an investigation to determine who was in the restroom at the time the fire started. *See* *Beltran,* 593 S.W.2d at 689.

Viewing the evidence in the light most favorable to the verdict, we conclude that a rational trier of fact could have found beyond a reasonable doubt that H.A.G. had the specific intent to damage or destroy the building

when she started the fire. *See* *Hooper*, 214 S.W.3d at 13; *Escamilla*, 143 S.W.3d at 817. We overrule H.A.G.'s first issue.

H.A.G. contends that the evidence merely shows that she burned her finger with the lighter and dropped a lit piece of paper into the trash can, and not that she had the specific intent to damage or destroy the building. Although Vargas stated that H.A.G. told him that she burned her finger and let a lit paper fall into the trash can, the trial court may not have believed H.A.G.'s explanation due to her conduct before and after she started the fire. *Beltran*, 593 S.W.2d at 689. The trial court could have inferred H.A.G.'s intent to damage the building because H.A.G. and another student planned to bring the lighter for the purpose of starting a fire at school, and H.A.G. failed to report the fire to school officials or warn others of the potential danger. *Id.* After viewing the evidence in a neutral light, we conclude that the evidence is not so weak that the trial court's verdict seems clearly wrong and manifestly unjust or that the verdict is against the great weight and preponderance of the evidence. *Watson*, 204 S.W.3d at 414-15. We overrule H.A.G.'s second issue.

Conclusion: We affirm.