

Review of Recent Juvenile Cases (2008)

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

Failure to object to TYC commitment at time of hearing or by post-trial motion waives complaint (08-4-7).

On October 30, 2008, the Corpus Christi Court of Appeals held that a complaint that a sentence to TYC is unjustified, unreasonable, inappropriate and disproportionate to the seriousness of the alleged violation of probation, is waived if not made either at the time of the hearing or by any post-trial motion.

¶ 08-4-7. **In the Matter of J.C.L.**, MEMORANDUM, No. 13-08-379-CV, 2008 WL 4742006, (Tex.App.-Corpus Christi, 10/30/08).

Facts: J.C.L. was placed on juvenile probation on June 6, 2007 for delivery or offer of delivery of a dangerous drug, a state jail felony. See [Tex. Health & Safety Code Ann. § 483.042\(a\), \(d\)](#) (Vernon 2003). On three subsequent occasions, the court found that J.C.L. had violated her probation. Each time, the court modified her probationary terms and increased the sanction level. On April 24, 2008, J.C.L. was unsuccessfully discharged from the Taylor County Post Adjudication Facility—a violation of her probation. Thereafter, the State filed a motion to modify J.C.L.'s probation. At the hearing on the motion to modify, J.C.L. entered a plea of "true" to the allegations that she violated her conditions of probation. The trial court terminated her probation and sentenced her to an indefinite term in TYC until discharge or no later than her nineteenth birthday.

Held: Affirmed

Memorandum Opinion: By her sole issue, J.C.L. complains the trial court's order of termination and sentence to TYC is unjustified, unreasonable, inappropriate and disproportionate to the seriousness of the alleged violation of a term and condition of her juvenile probation, in violation of the Eighth and Fourteenth Amendments of the United States Constitution. See [U.S. Const. amends. VIII](#) and [XIV](#). The record, however, reflects that no objection was made to the sentence either at the time of the hearing or by any post-trial motion. By failing to object, J.C.L. has waived any complaint on appeal. [Trevino v. State, 174 S.W.3d 925, 927-29 \(Tex.App.-Corpus Christi 2005, pet. ref'd\)](#).

Even if the issue had been preserved, however, the punishment assessed was within the limits prescribed by statute. See [Tex. Fam.Code. Ann. § 54.05\(f\)](#) (Vernon 2007). Generally, punishment that falls within the limits prescribed by statute is not excessive, cruel, or unusual. See [Samuel v. State, 477 S.W.2d 611, 614 \(Tex.Crim.App.1972\)](#); [Trevino, 174 S.W.3d at 928](#).

Conclusion: Having found that no error has been presented for review, we affirm the trial court's judgment.

