

Review of Recent Juvenile Cases (2009)

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

In a Determinate Sentence transfer hearing, the juvenile court retains jurisdiction over a person, to determine whether they should be transferred to TDCJ, without regard to the age of the person.[In the Matter of T.L.S.](09-4-2)

On August 19, 2009, the Tyler Court of Appeals denied Respondent's plea to the jurisdiction of the juvenile court, holding that the amended Family Code statutes applied prospectively and did not affect the jurisdiction of the juvenile court to consider whether to order individuals in this cohort to be transferred to TDCJ.

¶ 09-4-2. **In the Matter of T.L.S.**, ___ S.W.3d. ___, No. 12-08-00356-CV, 2009 WL 2517168 (Tex.App.-Tyler, 8/19/09).

Facts: On December 6, 2005, the district court in Cherokee County, acting as the county's juvenile court, adjudicated T.L.S. to be a juvenile delinquent, assessed a determinate sentence of twelve years, and placed him in the custody of the Texas Youth Commission (TYC). In August 2007, the State filed a petition to transfer T.L.S. to the Institutional Division of the Texas Department of Criminal Justice (TDCJ) to complete his sentence. T.L.S. filed a plea to the jurisdiction, arguing that the trial court was without jurisdiction to grant the State's petition because he was past his nineteenth birthday. The trial court held a hearing on August 8, 2008. Following that hearing, the trial court denied T.L.S.'s plea to the jurisdiction and ordered that he be transferred to TDCJ to complete his sentence. This appeal followed.

Held: Affirmed

Opinion: A juvenile court has "exclusive original jurisdiction over proceedings under this title [the Juvenile Justice Code]." [Tex. Fam.Code Ann. § 51.04](#)(a) (Vernon 2008). Significantly, the juvenile court "retains jurisdiction over a person, without regard to the age of the person, who is referred to the court under Section 54.11 for transfer to the Texas Department of Criminal Justice or release under supervision." [Tex. Fam.Code Ann. § 51.0411](#) (Vernon 2008). The legislature did not amend or alter any of the express terms of these provisions, and a prospective application of the changes to the underlying statutes means that the juvenile court retained jurisdiction to determine whether T.L.S. should be transferred to TDCJ. See [Matter of J.J., 276 S.W.3d at 175](#). Other courts that have considered this specific issue have concluded that the amended statutes applied prospectively and did not affect the jurisdiction of the juvenile court to consider whether to order individuals in this cohort to be transferred to TDCJ. See [In re J.J., 276 S.W.3d at 176](#); [In re T.G.](#), 2008 Tex.App. LEXIS 4551, at *20. We agree with those decisions. Accordingly, we hold that the trial court properly denied T.L.S.'s plea to the jurisdiction. We overrule T.L.S.'s sole issue.

Conclusion: Having overruled, T.L.S.'s sole issue, we *affirm* the judgment of the trial court.