

Review of Recent Juvenile Cases (2010)

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

Failure to timely serve respondent for Certification and Transfer Hearing deprived criminal district court of jurisdiction over him.[Maldonado v. State](10-2-6)

On March 12, 2010, the Amarillo Court of Appeals held that in a Certification and Transfer Hearing, the failure to serve summons on juvenile in a timely manner, deprived the juvenile court of its jurisdiction to transfer this matter to the district court and, therefore, the district court never acquired jurisdiction over appellant.

¶ 10-2-6. **Maldonado v. State**, MEMORANDUM, No. 07-09-00168-CR, 2010 WL 840814 (Tex.App.-Amarillo, 3/12/10).

Facts: On November 7, 2007, the State filed a petition alleging that appellant had engaged in delinquent conduct. Prior to any adjudication of the allegations against appellant, the State filed a motion requesting that the juvenile court waive jurisdiction of appellant's case and transfer the matter to the 69th District Court of Dallam County, Texas. The State then issued a summons for appellant's parents, Dina Maldonado and Simon Maldonado, to appear on January 24, 2008 at 2:30 p.m. when the court would consider the matter of the discretionary transfer of appellant's juvenile case to the district court. The clerk's record reflects that Dina Maldonado was not served with the summons until January 29, 2008 at 4:26 p.m., some five days after the hearing. Appellant and his father, Simon Maldonado, were served at 2:21 p.m. on January 24, 2008, some nine minutes before the hearing. On January 24, 2008, the juvenile court entered an order transferring the matter to the district court for trial as an adult. Subsequently, appellant entered a plea of guilty and was granted deferred adjudication community supervision for a period of 10 years. Appellant timely filed this appeal.

Held: Reversed and remanded.

Memorandum Opinion: A juvenile proceeding is governed by Title 3 of the Texas Family Code. See Tex. Fam.Code Ann. tit. 3 (Vernon 2007). A voluntary transfer of a case from a juvenile court to a district court is governed by section 54.02. Section 54.02(b) requires that the notice provisions found in other sections of the Code must be satisfied. Specifically, the requirements of section 53.07 must be met. See § 54.02(b). This provision requires that a summons be served on a person at least two days prior to the hearing in question. See § 53.07(a). The record reflects that none of the parties required to be served in the underlying juvenile action, prior to the transfer to district court, were served in a timely manner. The State has confessed this error in its letter brief filed with this Court. As a result of the failure to serve the summons in question in a timely manner, the juvenile court was deprived of its jurisdiction to transfer this matter to the district court and, therefore, the district court never acquired jurisdiction over appellant. See *Carlson v. State*, 151 S.W.3d 643, 646 (Tex.App.-Eastland 2004, no pet.); *Alaniz v. State*, 2 S.W.3d 451, 452 (Tex.App.-San Antonio 1999, no pet.). We sustain appellant's second issue.

Conclusion: Because the juvenile court did not have jurisdiction to transfer the case to the district court, we reverse the conviction of appellant and remand this matter to the juvenile court for further proceedings. Because of our resolution of appellant's second issue, we need not address appellant's first issue concerning the failure to record the transfer hearing.