

YEAR 2004 CASE SUMMARIES

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Court of Appeals upholds TYC commitment under abuse of discretion standard [In re T.G.] (04-4-09).

On October 13, 2004, the San Antonio Court of Appeals held that the juvenile court did not abuse its discretion in committing respondent to the TYC for felony graffiti.

04-4-09. In the Matter of T.G., UNPUBLISHED, No. 04-04-00307-CV, 2004 WL 1189887, 2004 Tex.App.Lexis ____ (Tex.App.-San Antonio 10/13/04) Texas Juvenile Law (6th Ed. 2004).

Facts: This is an appeal from a juvenile order of disposition. Appellant pled true to the charge of, and the trial court found that he engaged in, delinquent conduct, i.e., the felony offense of graffiti. The court assessed a punishment of commitment to the Texas Youth Commission ("TYC") for a period of eighteen months.

Held: Affirmed.

Opinion Text: COMMITMENT TO THE TEXAS YOUTH COMMISSION

In his sole issue on appeal, appellant asserts the trial court erred in placing him in the TYC because both he and his parents wanted him to be placed in his home. We review appellant's complaint under the standard set forth in *In re K.T.*, 107 S.W.3d 65, 74 75 (Tex.App.-San Antonio 2003, no pet.).

When the trial court asked the State why it recommended commitment to the TYC, the prosecutor responded that appellant had a number of problems at home, he leaves his parents' home without their permission, he has tested for marijuana, he admits to being the leader of a gang, and associates with gangs when he leaves home. The prosecutor stated that appellant ignores his parents when they try to stop his gang association, and as a result, a younger sibling is now following appellant's example and becoming disruptive. In response, appellant's attorney did not dispute these contentions. Instead, appellant's attorney argued a monitor would be more appropriate than placing appellant with the TYC because his parents were willing "to take him back one more time on the monitor." Counsel said his understanding was that appellant "is good for awhile and starts to revert back to the juvenile behavior." Appellant's parents did not dispute the State's contentions. Appellant's father and mother admitted they had to occasionally restrain appellant and that "sometimes it is just hard to work with him." The court noted appellant was currently on probation for assault. No other evidence was offered on appellant's behalf.

Based on this record, appellant has not demonstrated that the trial court abused its discretion in committing him to the TYC, rather than placing him with his parents.

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