
YEAR 2005 CASE SUMMARIES

By
The Honorable Pat Garza

Associate Judge
386th District Court
San Antonio, Texas

[2005 Summaries](#) [2004 Summaries](#) [2003 Summaries](#) [2002 Summaries](#) [2001 Summaries](#) [2000 Summaries](#) [1999 Summaries](#)

Double jeopardy clause was neither implicated nor violated by TYC administrative sanctions for escape. [In the Matter of J.M.](05-3-35B)

On August 11, 2005, the Corpus Christi Court of Appeals held that a juvenile court commitment to TYC for escape was not double jeopardy, where respondent had already received administrative sanctions by TYC for the same escape.

05-3-35B. In the Matter of J.M., Memorandum, No. 13-04-226-CV, 2005 Tex.App.Lexis 6359 (Tex.App.— Corpus Christi, 8/11/05).

Background: A jury found that appellant J.M., III, a juvenile, engaged in delinquent conduct by committing the offense of escape. n1 *See TEX. PEN. CODE ANN. 38.06* (Vernon 2003). The trial court entered a judgment of adjudication and disposition, incorporating the jury verdict and committing him to the Texas Youth Commission. By four issues, J.M. argues (1) the evidence is legally and factually insufficient, and (2) the trial court should have dismissed the case on speedy trial and double jeopardy grounds.

Held: Affirmed.

Facts: The jury heard that J.M. ran to the perimeter fence of the Texas Youth Commission's Joe B. Evins Regional Juvenile Center, accompanied by three juvenile inmates, around 6:45 a.m. on September 29, 2003. Pursued by two correctional officers, the youths proceeded through a cut in the fence that was marked with a plastic container. J.M. and one of the other juveniles fled the scene in a white Suburban that was waiting for them. The other two juveniles were apprehended by the pursuing officers. The following day, J.M. was arrested and returned to the custody of the Texas Youth Commission.

Memorandum Opinion: Sufficiency and Speedy Trial Issues Omitted.

By his fourth issue, J.M. argues that the trial court erred by denying his motion to dismiss on double jeopardy grounds. Conceding that the Texas Youth Commission imposed administrative sanctions for the escape, the State responds that disciplinary sanctions are not punishment.

A. The Law

The *Fifth Amendment* provides that "no person shall . . . be subject for the same offence to be twice put in jeopardy of life or limb . . ." *U.S. CONST. amend. V.*; see *Lopez v. State*, 108 S.W.3d 293, 295 (Tex. Crim. App. 2003). The United States Supreme Court stated that the *Fifth Amendment* guarantee against double jeopardy consists of three separate constitutional protections. *North Carolina v. Pearce*, 395 U.S.

711, 717, 23 L. Ed. 2d 656, 89 S. Ct. 2072 (1969); *Lopez*, 108 S.W.3d at 295. First, it protects against a second prosecution for the same offense after acquittal. *Lopez*, 108 S.W.3d at 295-96. Second, it protects against a second prosecution for the same offense after conviction. *Id.* Last, it protects against multiple punishments for the same offense. *Id.* In Texas, "No person for the same offense shall be twice put in jeopardy of life or liberty; nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction." *TEX. CODE CRIM. PROC. ANN. art. 1.10* (Vernon 2005).

B. The Record

At a pretrial hearing, J.M. testified that, after the arrest for the escape charge, he was returned to the Evins facility. He was "out of population for a week" in a small room-a more secure environment. After an administrative "Level III" hearing that lasted approximately an hour, J.M. was ordered to a Behavior Management Program that required he remain in security for sixty to ninety days to see if he improved his behavior. J.M. attested that he was in "security" for a total of forty-five to fifty days and then returned to his normal dorm.

C. Disposition

J.M. contests his adjudication on grounds that he has been sentenced to multiple punishments for the same offense. Because the plain meaning of the laws contemplate procedures by a court of competent jurisdiction, we conclude that the *double jeopardy clause* was neither implicated nor violated by the administrative sanction. The trial court could have reasonably concluded that a disciplinary sanction for an offense committed while J.M. was in custody for another adjudicated offense was not punishment meted out by a "court of competent jurisdiction," within the plain meaning of the federal constitution and *article 1.10*. See *TEX. CODE CRIM. PROC. ANN. art. 1.10* (Vernon 2005). We overrule J.M.'s fourth issue.

Conclusion: Having overruled J.M.'s four issues, we affirm the judgment of adjudication and disposition.