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## YEAR 2005 CASE SUMMARIES

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By  
**The Honorable Pat Garza**

Associate Judge  
386th District Court  
San Antonio, Texas

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### **Judicial confession, was sufficient evidence to conclude beyond a reasonable doubt that appellant committed arson as alleged.[In the Matter of A.V.](05-4-24)**

**On July 20, 2005, the San Antonio Court of Appeals held that a judicial confession standing alone is sufficient to sustain a conviction upon a guilty plea even if the defendant does nothing more than affirm that the allegations are true and correct.**

¶ 05-4-24. **In the Matter of A.V.**, MEMORANDUM, No 04-04-00632-CV, 2005 Tex.App.Lexis 8977 (Tex.App.– San Antonio, 7/20/05).

**Facts:** A.V. pled true to the charge of arson and waived his right to a jury trial. After finding A.V. had engaged in delinquent conduct, the trial court committed A.V. to the Texas Youth Commission until his 21st birthday. On appeal, A.V. contends the evidence is legally insufficient to support his adjudication for arson; he was denied effective assistance of counsel in violation of the Texas and United States Constitutions; and his counsel's ineffectiveness renders his plea involuntary.

**Held:** Affirmed

**MEMORANDUM OPINION:** In his first issue, A.V. contends that the only evidence presented by the State to support his adjudication was an out-of-court statement A.V. made to the police in which he admitted committing the offense. A.V. contends that *section 54.03(e) of the Family Code* is analogous to *article 1.15 of the Code of Criminal Procedure* and requires more than a juvenile's out-of-court statement to support an adjudication of delinquency. *Compare TEX. FAM. CODE ANN. § 54.03(e)* (Vernon 2002) (a child's out-of-court statement is insufficient to support a finding of delinquent conduct unless it is corroborated by other evidence) *with TEX. CODE CRIM. PROC. ANN. art. 1.15* (Vernon 2005) (a defendant may not be convicted of a felony in a bench trial upon his plea alone).

The record reflects, however, that A.V. judicially confessed to the delinquent conduct allegation in the State's petition. At the beginning of the adjudication hearing, the trial court read the allegation in the State's petition that A.V. committed the offense of arson. A.V. stated he was willing to enter a plea, verified he understood he was entitled to a jury and had signed a jury waiver, and then entered a plea of true to the State's allegation. The trial court then found A.V. to be a child who had engaged in delinquent conduct.

A judicial confession standing alone is sufficient to sustain a conviction upon a guilty plea even if the defendant does nothing more than affirm that the allegations are true and correct. *See Dinnery v. State*, 592 S.W.2d 343, 353 (Tex. Crim. App. 1980). Because A.V. affirmed that the allegation in the State's petition was true, we conclude that A.V. judicially confessed to the allegation in the State's petition.

Viewing the evidence in the light most favorable to the trial court's ruling, we conclude A.V.'s judicial confession, made in open court and under oath, after being fully informed of the charge against him, is sufficient evidence for any rational fact finder to conclude beyond a reasonable doubt that A.V. committed arson as alleged. *See In re J.M.B.*, 990 S.W.2d 294, 297 (Tex. App.-San Antonio 1998, *pet. denied*).

Ineffective assistance of counsel issues were rejected by the court (Arguments Omitted).

**Conclusion:** Court overruled A.V.'s issues.