

## Review of Recent Juvenile Cases (2009)

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

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**To be exempt from registration as a sex offender, the juvenile bears the burden of persuasion by a preponderance of the evidence that the two criteria necessary to exempt him have been met.[In the Matter of J.D.D.](09-1-1)**

**On November 18, 2008, the Dallas Court of Appeals held that a trial court may exempt a juvenile from registering as a sex offender if he shows that (1) registration would not increase the protection of the public and (2) any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the juvenile or his family that would result from registration.**

¶ 09-1-1. **In the Matter of J.D.D.**, No. 05-07-01252-CV, 05-07-01253-CV, 2008 WL 4916326 (Tex.App.-Dallas, 11/18/08).

**Facts:** In July 2005, the trial court adjudicated J.D.D., then sixteen, a child engaged in delinquent conduct for committing aggravated kidnapping and aggravated assault with a deadly weapon. The trial court committed him to the Texas Youth Commission on concurrent, ten-year determinate sentences with a possible transfer to the Texas Department of Criminal Justice and deferred a finding on sex offender registration.

Two years later, TYC requested appellant be transferred to TDCJ to complete his sentence. After a hearing, the trial court ordered both the transfer and public registration as a sex offender. In three issues, appellant contends the trial court abused its discretion in ordering the transfer, admitting his TYC records in violation of his right to confrontation under the Sixth Amendment, and ordering him to register as a sex offender.

**Held:** Affirmed.

**MEMORANDUM OPINION:** In his third issue, appellant contends the trial court abused its discretion in ordering him to register as a sex offender. Within this issue, appellant does nothing more than provide law on the standard of review and asserts, without more, that no evidence shows he had re-offended or "done anything characteristic of a sex offender." Consequently, as in the previous issue, we question whether appellant has adequately briefed this issue. Even assuming he has, no abuse of discretion is shown.

A trial court's decision to require a juvenile to register as a sex offender is reviewed for an abuse of discretion. [In re J.D.G., 141 S.W.3d 319, 321 \(Tex.App.-Corpus Christi 2004, no pet .\)](#). [Article 62.352 of the Texas Code of Criminal Procedure](#) provides the trial court shall exempt a juvenile from registering as a sex offender if it determines that (1) registration would not increase the protection of the public and (2) any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the juvenile or his family that would result from registration. [Tex.Code Crim.](#)

[Proc. Ann. art. 62.352](#) (Vernon 2006). The juvenile bears the burden of persuasion by a preponderance of the evidence to show the two criteria have been met. *Id.* at art. 62.351(b).

At the hearing on this issue, the trial court took judicial notice of the evidence admitted at the transfer hearing, which included the circumstances of the offense and the fact appellant fell into the most dangerous category of sex offender because his was a stranger/abduction offense. In addition, Anne Sibley, a Collin County **juvenile** probation officer, testified she believed registration was necessary in this case because (1) a weapon was used, (2) it was a planned offense in which appellant attempted to isolate one of the girls, (3) the offense was predatory in nature, and (4) appellant was not successful in treatment at TYC. Appellant's mother testified that public registration would make it much more difficult on her son, once he is paroled, and asked the court to consider a law-enforcement only registration. Given all of the evidence in the record, we cannot conclude the trial court abused its discretion in requiring registration in this case. We overrule the third issue.

**Conclusion:** We affirm the trial court's orders of transfer in both cases and the order of public registration as a sex offender in Cause No. 05-07-01252-CV.