

Review of Recent Juvenile Cases (2011)

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

Appellant's probation may be modified for violating the general condition of being unsuccessfully discharged from a placement facility. [In the Matter of S.D.M.S.](11-1-1)

On November 30, 2010, the Eastland Court of Appeals held that the evidence here showed that respondent was discharged from his placement prior to the completion of the program; therefore, he violated the term and condition of his probation which required him to complete the program.

¶ 11-1-1. In the Matter of S.D.M.S., MEMORANDUM, No. 11-08-00315-CV, WL 4879395 (Tex.App.-Eastland, 11/30/10).

Facts: The trial court, sitting as a juvenile court, found that S.D.M.S. had engaged in serious delinquent conduct (the aggravated sexual assault of a child), adjudicated his delinquency, and placed him on probation. The State subsequently filed a motion to modify the disposition.

The original terms and conditions of S.D.M.S.'s probation included the following provisions:

- (a) [S.D.M.S.] is hereby committed to the care, custody and control of Adolfo Salcido, Chief of the Juvenile Probation Department, a public official of Midland County, at the Rockdale Regional Juvenile Justice Center, Milam County, Rockdale, Texas, for a period of at least six (6) months and until completion of program ...;
- (b) [S.D.M.S.] does hereby agree to participate in the total program at the facility, including all rules and regulations and to remain in placement until discharged by the staff at the facility in conjunction with the Midland County Juvenile Probation Department; (emphasis added).

After a hearing on the motion, the trial court modified its previous disposition and ordered that S.D.M.S. be committed to the Texas Youth Commission.

Held: Affirmed

Memorandum Opinion: The record from the hearing on the motion to modify reveals that S.D.M.S. was unsuccessfully discharged after seven months in the detention center. S.D.M.S.'s case manager at the detention center testified that he was discharged unsuccessfully after seven months at Garza. She testified that, during his last two months at Garza, S.D.M.S. became defiant and disruptive and that he broke the rules by having sexual writings. The director of the sex offender treatment program at Garza, Dr. Beth Shapiro, testified that, though S.D.M.S. attended the sex offender classes, he had minimal progress in the program because he would not admit committing the offense that he had originally pleaded to. Dr. Shapiro also testified that S.D.M.S. exhibited inappropriate sexual behavior while at Garza. The evidence showed that S.D.M.S. was discharged prior to the completion of the program; therefore, S.D.M.S. violated term and condition (a) of his probation, which required S.D.M.S. to complete the program.

Conclusion: Because the evidence supports the trial court's finding that S.D.M.S. violated a reasonable and lawful order of the court, we hold that the trial court did not abuse its discretion in modifying S.D.M.S.'s disposition. The sole issue on appeal is overruled.