

Review of Recent Juvenile Cases (2011)

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

Juvenile misdemeanor offense admissible in adult punishment hearing.[Chappel v. State](11-3-7)

On June 20, 2011, the Dallas Court of Appeals held that where a violation of a penal law is a misdemeanor punishable by confinement in jail, such evidence of adjudication is admissible if the conduct upon which the adjudication is based occurred on or after January 1, 1996.

¶ 11-3-7. Chappel v. State, No. 05-10-00629-CR, --- S.W.3d ----, 2011 WL 2438520 (Tex.App.-Dallas, 6/20/11).

Facts: Appellant was charged by indictment alleging he committed the first-degree felony offense of aggravated robbery. Appellant waived his right to arraignment and to a jury trial and entered an open plea of guilty. After receiving all of the evidence, the trial court sentenced appellant to fifteen years' imprisonment and a \$5,000 fine. On appeal, appellant asserts the trial court lacked jurisdiction and erred by admitting appellant's juvenile record into evidence at the punishment phase of trial.

Held: Affirmed

Opinion: In his second issue, appellant argues the trial court erred in admitting appellant's juvenile record into evidence at the punishment phase of the trial. The code of criminal procedure provides that "... evidence may be offered by the state and the defendant of an adjudication of delinquency based on a violation by the defendant of a penal law of the grade of felony or of a misdemeanor punishable by confinement in jail." Tex.Code Crim. Proc. Ann. art. 37.07 § 3(a) (West Supp.2010). Where the violation of penal law is a misdemeanor punishable by confinement in jail, such evidence of adjudication is "admissible only if the conduct upon which the adjudication is based occurred on or after January 1, 1996." Id. § 3(i).

In the present case, appellant argues only that "the statute does not authorize the admission of [appellant's juvenile record] into evidence." The evidence establishes that appellant committed the offense of theft of property, a class B misdemeanor punishable by confinement in jail, and the adjudication occurred on February 18, 2007. See Tex. Penal Code Ann. § 31.03(e)(2)(A) (West 2011).

Conclusion: Because the offense was adjudicated after January 1996 and was punishable by confinement in jail, there is no basis for appellant's complaint that the prior adjudication was admitted in violation of article 37.07. Appellant's second issue is overruled. The judgment of the trial court is affirmed.