

In Waiver of Jurisdiction by Juvenile Court, the record established that the criminal court had proper jurisdiction over juvenile based on Certification and Transfer from an earlier offense.[Warren v. State](14-1-2)

On November 19, 2013, the Houston Court of Appeals (14<sup>th</sup> Dist.) found that there was a proper waiver of jurisdiction and certification of appellant for an earlier offense establishing jurisdiction for criminal prosecution for the offense for which he was indicted.

¶ 14-1-2. **Warren v. State**, MEMORANDUM, No. 14-12-00919-CR, 2013 WL 6095675 (Tex.App.—Houston (14<sup>th</sup> Dist.), 11/19/13).

**Facts:** On August 1, 2010, appellant and others robbed a grocery store in Beaumont wearing masks and carrying firearms. During the course of the robbery, a female store clerk, Dang Minh Nguyen, was shot and killed. Appellant was identified as one of the actors involved in the store robbery and murder. At the time of the offense, appellant was sixteen years old, but was certified to stand trial as an adult by the juvenile court.

A Jefferson County grand jury indicted appellant on charges of capital murder. He was tried by a jury and found guilty as alleged in the indictment. The trial court sentenced him to confinement for life in the Institutional Division of the Texas Department of Criminal Justice. This appeal timely followed.

In his first issue, appellant asserts that the record fails to establish that the trial court had proper jurisdiction over him. Specifically, he asserts that the waiver of jurisdiction by the juvenile court contained in our record states that appellant was previously transferred to criminal court under cause number 10–09241. Appellant was indicted by the grand jury on March 3, 2011 in cause number 11–11203. Thus, according to appellant, the waiver of jurisdiction by the juvenile court “is separate and distinct from the prosecution made the basis of this appeal.”

**Held:** Affirmed

**Memorandum Opinion:** The juvenile court has exclusive original jurisdiction over children under seventeen years of age. See Tex. Fam.Code Ann. § 51.04(a). In certain circumstances, a juvenile court may waive jurisdiction and transfer the child to a district or criminal district court. Id. § 54.02. “Unless the juvenile court waives jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution,” a person under seventeen may not be prosecuted for or convicted of any offense with several enumerated exceptions not applicable here. Tex. Penal Code Ann. § 8 .07(b) (emphasis added).

Here, the waiver found in our record under juvenile cause number F–11667–J, signed February 24, 2011, is entitled “Waiver of Jurisdiction and Order of Transfer to Criminal Court for Juvenile Previously Certified as an Adult.” In it, the 279th District Court of Jefferson County, sitting as a juvenile court, stated that appellant personally appeared with his attorney, his mother, and the assistant district attorney for a hearing on the State’s motion for transfer to a criminal district court. The court found that appellant was sixteen years old at the time that he committed

the offense, intentionally causing the death of Dang Minh Nguyen by the use of a firearm while in the course of committing and attempting to commit the offense of robbery, on or about August 1, 2010.

The court further found that the 317th District Court of Jefferson County had previously waived exclusive original jurisdiction over appellant and transferred juvenile cause number C-11466-J, which occurred on or about May 20th, 2010, to the appropriate Jefferson County criminal court. The court found that the previously transferred case was now styled State of Texas v. Labyron Jaffar Warren and assigned cause number 10-09241 in the Criminal District Court of Jefferson County. This case was pending in Jefferson County and had not been decided or dismissed. The juvenile court found that it was “contrary to the best interest of the public to retain jurisdiction” of appellant under juvenile cause number F-11667-J, the capital murder of Dang Minh Nguyen. The court explicitly stated that the findings, waiver of jurisdiction, transfer, and certification of juvenile cause number C-11466-J were made a part of the waiver of jurisdiction and transfer order for the capital murder offense.

**Conclusion:** Accordingly, there is a waiver of jurisdiction pursuant to section 54.02 of the Family Code and certification of appellant for criminal prosecution for the offense for which he was later indicted. See Tex. Penal Code Ann. § 8.07(b). Moreover, the waiver reflects that another juvenile court had previously waived jurisdiction and certified appellant for criminal prosecution for a prior offense. See *id.* Thus, the record reflects that the criminal district court properly acquired jurisdiction over appellant. Accordingly, appellant’s first issue is overruled.