

Juvenile Law Case Summaries

By
Robert O. Dawson
Bryant Smith Chair in Law
University of Texas School of Law

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Appeal lies from the juvenile court where the case was tried even when probation is transferred to another county [In re J.S.] (01-1-09)

On January 4, 2001, the Fort Worth Court of Appeals held that an appeal from a juvenile case is from the county where the case was tried and not from the county to which probation was transferred under Section 51.07(b)

¶ 01-1-09. In the Matter of J.S., ___ S.W.3d ___, No. 1-00-037-CV, 2001 WL 8871, 2001 Tex.App.Lexis ___ (Tex.App.—Fort Worth 1/4/01)[Texas Juvenile Law (5th Ed. 2000)].

Facts: J.S., a juvenile, appeals the trial court's judgment of delinquency. After a hearing before the court, the trial court found beyond a reasonable doubt that appellant engaged in delinquent conduct by committing indecency with L.Z., a child younger than fourteen years of age.

At the disposition hearing, on November 12, 1999, the trial court placed appellant on probation for two years, subject to the terms and conditions of probation as specified. On November 23, 1999, appellant filed a motion to transfer jurisdiction to Bexar County, where he resided with his mother. On December 1, 1999, the trial court granted the motion and ordered the case transferred to Bexar County and ordered the Tarrant County District Clerk to forward the transcripts of the records and documents in the case. See Tex. Fam.Code Ann. § 51.07(b) (Vernon 1996). [FN1] On December 23, 1999, appellant filed his notice of appeal with the Tarrant County District Clerk's Office.

FN1. Section 51.07, entitled "Transfer to Another County," provides:

- (a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision under Section 54.03 of this code, the juvenile court, with the consent of the child and appropriate adult given in accordance with Section 51.09 of this code, may transfer the case and transcripts of records and documents to the juvenile court of the county where the child resides for disposition of the case under Section 54.04 of this code.
- (b) When a child who is on probation moves with his family from one county to another, the juvenile court may transfer the case to the juvenile court in the county of the child's new residence if the transfer is in the best interest of the child. In all other cases of transfer, consent of the receiving court is required. The transferring court shall forward transcripts of records and documents in the case to the judge of the receiving court.

Held: Motion to dismiss denied.

Opinion Text: As a threshold issue, the State questions our jurisdiction to consider this appeal. It contends that following the transfer, the Bexar County juvenile court became the trial court for purposes of perfecting an appeal, and appellant should have perfected the appeal by filing notice of appeal with the trial court clerk in Bexar County, not the Tarrant County District Clerk. We disagree.

A juvenile has the right to appeal an order or judgment of a district court with original jurisdiction to the court of appeals authorized to hear appeals for the particular district. See TEX. CONST. art. V, § 6; Tex. Fam.Code Ann. § 56.01 (Vernon

Supp.2001); Tex. Gov't Code Ann. § 22.201 (Vernon 1988). This court has appellate jurisdiction over all cases over which Tarrant County district and county courts exercise original jurisdiction. Our appellate jurisdiction is thus derivative of the trial court's jurisdiction. The final judgment of delinquency and order of probation in this case were rendered in a cause over which the Tarrant County district court had original jurisdiction. The trial courts of Tarrant County do not fall within the Fourth District. See Tex. Gov't Code Ann. § 22.201(c), (e). Furthermore, the case was

transferred to Bexar County only for the purpose of supervising appellant's probation after final judgment and disposition of the case. See Tex. Fam.Code Ann. § 51.07(b); compare *Peacock v. Travelers Property Cas. Ins. Co.*, 16 S.W.3d 445, 447 (Tex.App.–Waco 2000, no pet.) (involving transfer of cases by the Supreme Court for purposes of appeal). Because the appeal arises from the final judgment of a trial court within our district, appellant's notice of appeal was properly filed with the Tarrant County District Clerk's Office, and we have appellate jurisdiction over the cause.

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