

Juvenile Law Case Summaries

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Constitutional habeas corpus, not article 11.07 of the Code of Criminal Procedure, applies to juvenile proceedings [In re Debrow] (01-1-18).

On February 14, 2001, the San Antonio Court of Appeals denied a petition for writ of mandamus to require a juvenile court judge to rule on an application for writ of habeas corpus filed under article 11.07 of the Code of Criminal Procedure. The Court of Appeals denied mandamus on the ground that habeas proceedings in juvenile cases are governed by the Texas Constitution, not by article 11.07 of the Code of Criminal Procedure.

¶¶ 01-1-18. In re Debrow, UNPUBLISHED, No. 04-01-00095-CV, 2001 WL 121103, 2001 Tex.App.Lexis ____ (Tex.App.—San Antonio 2/14/01)[Texas Juvenile Law (5th Edition 2000)].

On January 31, 2001, the relator, Edwin Carl Debrow, petitioned this court for a writ of mandamus. The relator stated in his petition that he had applied for a writ of habeas corpus under article 11.07 of the Code of Criminal Procedure, and complained that the trial court had not ruled on his application. Article 11.07, however, does not apply to juvenile dispositions. See Tex.Code Crim.Proc. Ann. art. 11.07 (Vernon Supp.2000) (stating that application under this article applies when applicant seeks relief from a felony judgment); see Tex.Fam.Code Ann. 54.02(h) (stating that criminal proceedings against juvenile certified to stand trial as an adult will be governed by Code of Criminal Procedure) (Vernon Supp.2000). Instead, article V, section 8 of the Texas constitution applies to an application for writ of habeas corpus in a proceeding under the juvenile justice code. Tex. Const. art. V, § 8; see M.B. v. State, 905 S.W.2d 344, 346 (Tex.App.—El Paso 1995, no pet.) See Tex.R.App.P. 52(j). The relator's petition does not comply with the rules of appellate procedure. See id. R. 52. Accordingly, the petition for writ of mandamus is DENIED. Tex.R.App.P. 52.8(a).

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