

Juvenile Law Case Summaries

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Appeal from determinate sentence transfer to TDCJ affirmed on ground it was frivolous [In re T.H.](01-2-05).

On March 14, 2001, the San Antonio Court of Appeals affirmed a juvenile court transfer order to TDCJ under the determinate sentence act. It did so on the advice of defense counsel that the appeal was frivolous.

¶ 01-2-05. In the Matter of T.H., UNPUBLISHED, No. 04-00-00494-CV, 2001 WL 246816 (Tex.App.—San Antonio 3/14/01)[Texas Juvenile Law (5th Edition 2000)].

Facts: On March 23, 1998, a plea of true was entered in the non-jury determinate sentencing hearing of T.H., a fourteen-year old juvenile. The juvenile court ordered him to be committed to the custody of the Texas Youth Commission for seven (7) years, with the possible transfer to the Texas Department of Criminal Justice. An appeal was taken to this court and denied for want of jurisdiction on November 13, 1998.

On February 24, 2000, the Texas Youth Commission requested a release/transfer hearing in the juvenile court that entered the order of commitment in the determinate sentencing. On March 31, 2000, after hearing testimony and argument, the juvenile court ordered the juvenile to be transferred to the Texas Department of Criminal Justice, Institutional Division, to complete his sentence. Notice of appeal was timely filed and the court appointed an attorney to handle the appeal and to act as guardian ad litem. On October 2, 2000, T.H.'s court-appointed attorney on appeal filed a brief in which counsel concludes this appeal is frivolous and without merit. Counsel also filed a motion to withdraw.

Held: Affirmed.

Opinion Text: Counsel's brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), *High v. State*, 573 S.W.2d 807 (Tex.Crim.App.1978), and *Gainous v. State*, 436 S.W.2d 137 (Tex.Crim.App.1969). Specifically, counsel states T.H. was provided with a copy of the brief and motion to withdraw and was further informed of his right to review the record and file his own brief if he wished. See *In re D.A.S.*, 973 S.W.2d 296, 299 (Tex.1998); *In re A.L.H.*, 974 S.W.2d 359, 360-61 (Tex.App.—San Antonio 1998, no pet.). T.H. has not filed a brief.

We have reviewed the record and counsel's brief and agree the appeal is frivolous and without merit. The judgment of the trial court is affirmed. Furthermore, we GRANT the motion to withdraw filed by attorney Margaret Upton. See *Bruns v. State*, 924 S.W.2d 176, 177 n. 1 (Tex.App.—San Antonio 1996, no pet.).

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