

Juvenile Law Case Summaries

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Modification of disposition for violation of rules of boot camp upheld [In re B.D.D.](01-2-10).

On March 26, 2001, the Dallas Court of Appeals upheld a modification of disposition and commitment to the TYC for violation of the rules of a boot camp.

¶ 01-2-10. In the Matter of B.D.D., II, UNPUBLISHED, No. 05-00-01376-CV, 2001 WL 287035, 2001 Tex.App.Lexis _____ (Tex.App.—Dallas 3/26/01)[Texas Juvenile Law (5th Edition 2000)].

Facts: B.D.D. II, a juvenile, appeals the trial court's order modifying disposition and committing him to the Texas Youth Commission (TYC). In one issue, appellant contends the evidence is legally and factually insufficient to support the trial court's finding that appellant violated the terms of his probation.

On September 3, 1999, the State filed a petition alleging that the thirteen- year-old appellant engaged in delinquent conduct by sexually assaulting B.C.D., a child younger than fourteen years of age. On September 30, 1999, appellant pleaded true to the allegations. That same day, the trial court signed an order of adjudication and disposition finding that appellant engaged in delinquent conduct and placing him on probation for twenty-four months. The trial court signed amended conditions of juvenile probation and intensive supervision probation on October 19, 1999 and, again, on February 14, 2000. In June 2000, the State moved to modify disposition, alleging that appellant had failed to comply with the terms of his probation and seeking appellant's commitment to the TYC. Following a hearing, the trial court found appellant violated the terms of his probation and committed appellant to the TYC. This appeal followed.

In a single issue, appellant contends the evidence is legally and factually insufficient to support the trial court's finding that he violated the terms of his probation. Appellant argues that because there is no evidence to support the trial court's decision, we must reverse this cause for further proceedings. For the reasons that follow, we disagree.

Held: Affirmed.

Opinion Text: In a juvenile case, a trial court may modify a prior disposition based on a finding that a juvenile engaged in delinquent conduct so as to commit the juvenile to the TYC "if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court." Tex.Fam.Code Ann. § 54.05(f) (Vernon Supp.2001). When a juvenile challenges the legal sufficiency of the evidence, we consider only that evidence and those inferences which tend to support the challenged findings, and disregard any and all evidence and inferences to the contrary. In re H.G., 993 S.W.2d 211, 213 (Tex.App.—San Antonio 1999, no pet.). When reviewing a factual sufficiency challenge in a juvenile case, we consider the totality of the evidence to determine whether the evidence supporting the finding is so weak or the evidence contrary to the finding is so overwhelming that it is clearly wrong and unjust. In re J.M., 25 S.W.3d 364, 367 (Tex.App.—Fort Worth 2000, no pet.). The trial court is the exclusive judge of the credibility of the witnesses, may believe or disbelieve any witness, and may resolve any inconsistencies or contradictions in the testimony. See id. Juvenile courts are vested with a great amount of discretion in determining the suitable disposition of children found to have engaged in delinquent conduct, and this is especially so on hearings to modify disposition. See id.

As a condition of his probation, appellant was required to successfully complete the boot camp program at the Department of Juvenile Services Juvenile Boot Camp, abiding by all of the program's rules and regulations. In its motion to modify disposition, the State alleged that appellant violated this term of his probation by: (1) noncompliant and/or disrespectful behavior in the Cooke, Fannin, and Grayson County Boot Camp on numerous dates, and (2)

assaulting a boot camp staff member on May 21, 2000. [FN1]

FN1. The State's motion also alleged appellant violated the term of his probation that required him to "commit no offense against the laws of the State of Texas, any other State, or of the United States of America, or penal ordinances of a political subdivision." Because we conclude the evidence supports the trial court's finding appellant violated the term of his probation requiring him to successfully complete boot camp and abide by its rules, we do not consider whether appellant committed a criminal offense.

At the hearing on the motion to modify, Keith Walker, appellant's case manager at the Cooke, Fannin, and Grayson County Boot Camp, testified that all participants in the boot camp program receive a copy of the boot camp handbook, which sets out the program's rules and regulations. On over twenty occasions from February 2000 to May 2000, Walker was notified that appellant had violated the rules of boot camp. All of these incidents involved violence or disruptive behavior. Walker indicated appellant was a "very angry young man" who had a problem controlling his anger. Walker gave various examples of appellant's actions that were in violation of the program's rules. For example, appellant grabbed a drill instructor's leg during a period of physical exercise, cursed at a staff member and tried to slap his arm away, and pushed another child and became verbally aggressive toward him. On May 21, appellant became angry with a drill instructor and took a swing at the instructor's head. On May 23, appellant was discharged from the boot camp program and taken to a detention center.

Appellant testified that most of his difficulties at boot camp occurred during physical training because he had difficulty doing what was requested of him physically. He was not able to keep up with the others. Appellant admitted he had lost his temper on occasion and said things he should not have said. He also admitted hitting another cadet because the cadet had called him names.

Appellant contends the evidence is insufficient because he was disrespectful and noncompliant only when asked to perform skills that were beyond his physical capabilities. Although it appears most of appellant's violations occurred during physical training or were connected with it, according to his case manager, appellant did not violate the program's rules by failing to physically perform. Rather, he violated the program's rules by his violent and disruptive behavior after or during physical training. As set out above, on more than one occasion, appellant used or attempted to use physical violence against his instructors and a fellow cadet. Having reviewed all the evidence, we conclude it is legally and factually sufficient to support the trial court's finding that appellant violated the terms and conditions of his probation. Consequently, the trial court did not abuse its discretion in committing appellant to the TYC.

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