Juvenile Law Case Summaries

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Admitting in criminal trial juvenile probation officer's opinion about defendant's state of mind at time of offense was harmless error, if error [Brockman v. State] (02-1-16).

On January 10, 2002, the Dallas Court of Appeals held that a criminal court judge's ruling permitting a juvenile probation officer to testify that the defendant had not suffered from a psychotic break when he stabbed the victim to death was harmless error if it was error at all.

02-1-16. Brockman v. State, ___ S.W.3d ____, 2002 WL 24395, 2002 Tex.App.Lexis ___ (Tex.App.-Dallas 1/10/02) [Texas Juvenile Law (5th Edition 2000)].

Facts: A jury convicted Christopher Anson Brockman of capital murder. Because appellant was sixteen years old at the time of the murder, the trial court assessed an automatic life sentence. See Tex. Pen.Code Ann. §§ 8.07(c), 12.31(a) (Vernon 1994 & Supp.2002). In three points of error, appellant complains the trial court improperly: (1) instructed the jury on the defense of involuntary intoxication; and (2) admitted opinion testimony from a lay witness.

Appellant was with friends when one of them asked him to help him commit a robbery. The intended victim was the friend's mother, Cynthia Tamplin. Appellant, who had earlier that evening "grabbed" a pocket knife, agreed, and the two, along with the friend's girlfriend, drove to Tamplin's house. After parking behind the house, the friend and appellant exited the car. As they approached the house, the friend told appellant if Tamplin saw either one of them, appellant would have to kill her. Although "reluctant," appellant continued. The two put on gloves and tried to enter the house through a back door, but were unsuccessful. The friend told appellant they would have to knock on the front door, and reiterated appellant would have to kill Tamplin. Although appellant stated he did not like the idea, he agreed, went to the front door, and knocked. When Tamplin opened the door, appellant began stabbing her, first with the pocket knife, and then with kitchen knives the friend provided. Appellant stabbed Tamplin forty-two times, and she died from the wounds. Before appellant and the friend left Tamplin's house, the friend ransacked the master bedroom and took Tamplin's purse.

Appellant did not deny his role in the murder, but asserted a defense of involuntary intoxication. At trial, appellant's mother testified he had been prescribed, months before the murder, Adderall, Zoloft, and Risperdal to control his depression and attention deficit with hyperactivity disorder (ADHD). Despite the medications, however, appellant's condition did not improve, and he began having severe emotional outbursts. Although appellant knew it was contra-indicated, he began self-medicating with illicit drugs while continuing to take the medications. At the time of the offense, appellant had taken the medications and was also under the influence of cocaine, marijuana, and alcohol.

Following his arrest, appellant was diagnosed with bipolar disorder and placed on lithium. According to a child psychiatrist, called by appellant, appellant was improperly diagnosed with ADHD and inappropriately prescribed Adderall and Zoloft. Additionally, the psychiatrist opined the combination of Adderall and Zoloft could cause a psychotic state, rendering an individual taking those two medications unable to conform his conduct to the law. Two other experts for appellant concurred taking Adderall and Zoloft together could lead to a psychotic state. All three testified the use of cocaine, marijuana, and/or alcohol could exacerbate the symptoms.

In rebuttal, the State presented the testimony of two psychologists and a child psychiatrist, none of whom believed appellant was suffering from bipolar disorder. The State also called a former juvenile probation officer who had interviewed appellant within days after the murder. Over appellant's objection, the probation officer testified appellant's actions were not the result of a "psychotic break" with reality but rather were "planned [and] brutal."

Held: Affirmed.

Opinion Text: In his third issue, appellant complains the court erred in admitting opinion testimony from the probation officer. Specifically, appellant complains of the following examination by the State:

[Prosecutor]: Do you believe that this murder of this lady back on October 3rd was a result of any psychotic break with reality?
[Defense Counsel]: Your honor, I object to speculation on this witness's part. There's no foundation for her to give an opinion on that.
[Court]: Overruled.
[Prosecutor]: What was your answer
[Witness]: I do not think it was a psychotic break of any kind.
[Prosecutor]: What did it appear to you to be, based on your review of the reports and your talking with him and your observations?
[Defense Counsel]: Judge, Your Honor, I object that this witness is not qualified to give opinions of this nature, and object to relevancy and her giving opinion. No foundation.
[Court]: Well he asked what did it appear to her, so overruled.
[Witness]: The reports that I reviewed, it looked like a very planned, brutal murder/robbery.

Appellant maintains the trial court erred in overruling his objection because the probation officer had not been qualified as an expert and did not have first-hand knowledge of appellant's state of mind or conduct at the time of the murder. The State initially responds appellant did not properly preserve error because he did not specifically challenge the officer's qualifications as an expert in the area of juvenile psychology. We disagree with the State.

To preserve a complaint for appellate review, a party must present to the trial court a timely request, objection or motion, stating the specific grounds for the ruling sought from the court, unless the specific grounds are apparent from the context. Tex.R.App. P. 33.1(a). Additionally, the party must obtain a ruling, either express or implicit, or show the court's refusal to rule and an objection to the court's refusal. Id. In this case, although appellant's objection could have been more precise, we conclude the grounds were apparent to both the prosecutor and the court.

Having concluded appellant properly preserved error, we turn to the merits of the complaint. Whether opinion testimony is admissible is within the sound discretion of the trial court. See Fairow v. State, 943 S.W.2d 895, 901 (Tex.Crim.App.1997); Green v. State, 934 S.W.2d 92, 101-02 (Tex.Crim.App.1996). But even where the trial court abuses its discretion, we reverse only where the appellant's substantial rights have been affected. See Tex.R.App. P. 44.2(b); Solomon v. State, 49 S.W.3d 356, 365 (Tex.Crim.App.2001). In determining whether an appellant's substantial rights have been affected, we review the entire record and look for a "fair assurance that the error did not influence the jury, or had but a slight effect." Solomon, 49 S.W.3d at 365 (citation omitted).

Again, we need not engage in a detailed discussion on whether the trial court abused its discretion because we conclude admission of the testimony was harmless. As the State notes, there was other evidence from which the jury could find appellant acted in accordance with a plan. The record reflects appellant's friend approached him about participating in the robbery of Tamplin, and appellant agreed. Before attempting to enter the house, the friend told appellant he would have to kill Tamplin if Tamplin saw either one of them. Appellant did not refuse, rather he continued towards the house and put on a pair of gloves. When efforts to enter through the back door failed, appellant proceeded towards the front door. Appellant's friend reiterated appellant would have to kill Tamplin, and appellant again did not object. Then, when Tamplin opened the door, appellant began stabbing her. Under these circumstances, we "have a fair assurance" the complained-of testimony did not influence the jury or had but a slight effect. We resolve appellant's third issue against him.

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