

Juvenile Law Case Summaries

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No abuse of discretion in probation revocation and TYC commitment [In re J.H.] (02-1-30).

On February 20, 2002, the Tyler Court of Appeals held that the juvenile court did not abuse its discretion in revoking probation and committing respondent to the TYC based on his admission of three probation violations.

02-1-30. In the Matter of J.H., UNPUBLISHED, No. 12-01-00247-CV, 2002 WL 253873, 2002 Tex.App.Lexis ____ (Tex.App.-Tyler 2/20/02) [Texas Juvenile Law (5th Edition 2000)].

Facts: J.H. appeals from the trial court's order modifying a prior disposition and committing him to the Texas Youth Commission (TYC). In his sole issue, Appellant contends the trial court erred in determining that he should be placed in TYC.

J.H. was adjudicated as a child who engaged in delinquent conduct for committing the offense of aggravated assault and was placed on probation. Less than a year later, he was detained on new charges. The State moved to modify the earlier disposition due to several probation violations. At the hearing on the motion, J.H. pleaded true to violating three terms of his probation and stipulated to the evidence of those violations. The trial court found that J.H. violated the conditions of his probation, modified its previous disposition, and ordered J.H. committed to TYC for an indeterminate period not to exceed his twenty-first birthday.

Held: Affirmed.

Opinion Text: In his only issue, J.H. asserts that the trial court's original disposition should not have been modified to include commitment to TYC. He contends that detention following his probation violations intensified already existing emotional and psychological problems and asserts that being in TYC will make those problems worse. Therefore, he argues, since commitment to TYC is not in his best interest, some alternate placement would be more appropriate and beneficial to him.

This case involves the modification of the order placing J.H. on probation. Such modification proceedings are governed by section 54.05 of the Texas Family Code. See Tex. Fam.Code Ann. § 54.05 (Vernon Supp.2002). That section permits a trial court to modify a disposition so as to commit the child to TYC if the court, after a hearing, finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. *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 in hearings to modify disposition. In *re D.R.A.*, 47 S.W.3d 813, 815 (Tex.App.-Fort Worth 2001, no pet.). The controlling issue is whether the record reveals that the trial court abused its discretion in finding, by a preponderance of the evidence, that Appellant violated a condition of his probation. *Id.* A plea of true to a violation of probation and a stipulation to the evidence are analogous to a judicial confession which justifies the court's finding the violation was committed by a preponderance of the evidence. In *re M.A.L.*, 995 S.W.2d 322, 323 (Tex.App.-Waco 1999, no pet.).

J.H. pleaded true to violating three terms of his probation and stipulated to the evidence of those three violations. His probation officer described generally some of the problems J.H. had experienced, including at least one suicide attempt and attempts to run away. She stated that her department had done all it could for him. Another witness from the probation department also recommended TYC because J.H. has exhausted all of their other options. She stated that there is no other suitable placement that would be in his best interest and that commitment to TYC would also address the issues of the safety of the community and of J.H. himself. She explained that TYC would perform a thorough assessment to determine his needs and place him appropriately. J.H.'s counselor testified that J.H. has multiple learning disabilities and a mood instability problem stating that J.H. is not stable enough to be maintained in an unsecured area.

J.H.'s plea of true to the probation violations is sufficient to support the trial court's order of commitment. In *re M.A.L.*, 995 S.W.2d at

323. Furthermore, in its order, the trial court listed its eleven reasons for committing J.H. to TYC. These reasons are centered on J.H.'s behavioral and psychological problems and the need to provide a safe environment and treatment for him, both of which TYC can provide. It is clear the trial court also made its decision to commit J.H. to TYC based on uncontradicted evidence that such action would be in J.H.'s best interest. The trial court did not abuse its discretion in ordering J.H. committed to TYC. We overrule J.H.'s sole issue.

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