

Juvenile Law Case Summaries

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Not error to admit evidence of theft by respondent at fitness to proceed hearing [In re M.A.S.] (02-2-07).

On March 20, 2002, the San Antonio Court of Appeals held that the juvenile court judge did not err in admitting testimony at the fitness to stand trial hearing of evidence that the juvenile committed a theft.

02-2-07. In the Matter of M.A.S., UNPUBLISHED, No. 04-01-00386-CV, 2002 WL 432436, 2002 Tex.App.Lexis ____ (Tex.App.-San Antonio 3/20/02) [Texas Juvenile Law (5th Edition 2000)].

Facts: The appellant is a juvenile who appeals from an evidentiary ruling by the trial court during a jury trial on the issue of fitness to proceed. We conclude the trial court did not abuse its discretion when it admitted the testimony of a fact witness; therefore, we affirm.

The appellant was charged with delinquent conduct by committing the offenses of theft and unauthorized use of a motor vehicle. He filed a pretrial Motion for Complete Physical Psychiatric Sanity, and Competency Examination, and a jury was empaneled to decide whether he was fit to proceed. After a jury found the appellant fit to proceed, he stipulated to the State's evidence, and the trial court entered a judgment of adjudication finding that he had engaged in delinquent conduct. Appellant was committed to the Texas Youth Commission.

Held: Affirmed.

Opinion Text: On appeal, the appellant complains the trial court erred in allowing into evidence, during the fitness hearing, testimony about his extraneous bad acts. The State argues that appellant's complaint on appeal does not pertain to the subject-matter of the pretrial motion; therefore, this court does not have jurisdiction to consider his complaint on appeal. See Tex. Fam.Code Ann. § 56.01(n) (Vernon Supp.2001). We disagree. The subject-matter of appellant's motion was his fitness to proceed and his complaint on appeal is directed to that issue.

At the hearing, Regina Provenzano, testified that she worked for a non-profit organization, which provides social services in school settings for children who are at risk of dropping out of school. Provenzano testified that she saw appellant on a school-day afternoon, when he came to her office for school supplies. Later that same day, after being away from her office for a few minutes, Provenzano returned to find the appellant standing behind her desk. Appellant, who was holding a folder, told her he was looking at books, but Provenzano discovered he had her wallet and cell phone in the folder. Appellant first said that he found the items on the floor, then he said he took them away from "a big white guy."

The appellant concedes the evidence was relevant, but he argues its inflammatory potential outweighs its probative value. He asserts that the testimony resulted in an improper verdict because the jury based its decision on the extraneous bad acts rather than his fitness to proceed.

The State's competency expert provided lengthy testimony regarding the various evaluations of appellant and he concluded, based on his review of all the documents in the case and his conversation with Provenzano, that appellant was not mentally retarded and that he was fit to proceed. In view of the other evidence presented at the hearing, Provenzano's testimony was not unfairly prejudicial; therefore, the trial court did not abuse its discretion in allowing the testimony into evidence.

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