

Juvenile Law Case Summaries

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Removal from home findings supported by evidence [In re R.E.A.] (02-2-23).

On May 16, 2002, the Corpus Christi Court of Appeals held that the juvenile court's removal from home findings supporting placement in a boot camp as a condition of probation was supported by the evidence.

02-2-23. In the Matter of R.E.A., UNPUBLISHED, No. 13-01-129-CV, 2002 WL 992656, 2002 Tex.App.Lexis ____ (Tex.App.-Corpus Christi 5/16/02) [Texas Juvenile Law (5th Edition 2000)].

Facts: Appellant, R.E.A., a juvenile, pleaded true to unauthorized use of a motor vehicle and possession of marijuana. After hearing evidence the trial court placed him on probation and ordered him to complete the J.U.S.T.I.C.E. Long Term Boot Camp Program. The issue is whether the evidence is factually sufficient to support the trial court's findings which permit appellant's placement in boot camp. We affirm.

I. Discussion

Standard of Review

A juvenile court's disposition order is reviewable both for sufficiency of the evidence supporting the necessary findings and an abuse of discretion. In the Matter of M.A.C., 999 S.W.2d 442, 446 (Tex.App. El Paso 1999, no pet.). The juvenile court's findings of fact are reviewable for factual sufficiency of the evidence to support them. In the Matter of C.C., 13 S.W.3d 854, 858 (Tex.App.--Austin 2000, no pet.); In the Matter of M.A.C., 999 S.W.2d at 446. In reviewing factual sufficiency we consider and weigh all of the evidence, and if the finding is so against the great weight and preponderance of the evidence that it is manifestly unjust we set aside the disposition order and remand the case for a new disposition hearing. In the Matter of C.C., 13 S.W.3d at 859. See In the Matter of K.L.C., 972 S.W.2d 203, 20607 (Tex.App.--Beaumont 1998, no pet.).

Disposition Proceedings

Section 54.04 of the Texas Family Code guides the juvenile court's exercise of discretion in making an appropriate disposition. In the Matter of M.A.C., 999 S.W.2d at 446. Section 54.04(c) provides that:

No disposition placing the child on probation outside the child's home may be made under this section unless the court or jury finds that the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of the probation.

Tex. Fam.Code Ann. '54.04(c) (Vernon 1996); In the Matter of A.S., 954 S.W.2d 855, 861 (Tex.App.--El Paso 1997, no pet.). Further section 54.04(i) of the Texas Family Code provides:

(i) If the court places the child on probation outside the child's home ... the court:

(1) shall include in its order its determination that

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the home and to make it possible for the child to return to the child's home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation;

Tex. Fam.Code Ann. '54.04(i) (Vernon 1996); In the Matter of A.S., 954 S.W.2d at 86.

In a juvenile case the trial court has broad discretion to determine a suitable disposition of a child who has been adjudicated to have engaged in delinquent conduct. In the Matter of A.S., 954 S.W.2d at 861; In the Matter of J.R., 907 S.W.2d 107, 110 (Tex.App.--Austin 1995, no writ). Absent an abuse of discretion, we will not disturb the juvenile court's findings. In the Matter of A.S., 954 S.W.2d at 861; In the Matter of J.J., 916 S.W.2d 532, 535 (Tex.App.--Dallas 1995, no writ); In the Matter of J.P.O., 904 S.W.2d 695, 698 (Tex.App.--Corpus Christi 1995, writ denied).

II. Disposition Hearing

On December 13, 2000, appellant pleaded true to unauthorized use of a motor vehicle and possession of marijuana. Afterwards the trial court admitted the probation officer's report into evidence, and the State called Ms. Christi Allen, appellant's probation officer, to testify. She stated that the juvenile probation department recommended that appellant be placed in the boot camp. She also testified that in making this recommendation the staffing committee considered appellant's long referral history to the probation department, his continual use of drugs, his lack of attendance at school, and his behavior at home. At one point appellant left home, and his parents did not see him for over one month. Appellant had also taken his parents' car without their permission. She said that appellant had been in detention since November 2000, and that according to detention staff, appellant does not want to follow directions. While in detention appellant had generated several behavioral incident reports, the latest being on December 11, 2000. Allen said that appellant had never been adjudicated before, nor had he been placed on official probation, intensive supervised probation, or the spotlight program. She did not think that appellant would be able to comply with official probation.

Appellant, who is sixteen years old, testified that he did not want to go to boot camp; rather, he wanted the judge to give him one more chance to prove that he could stay away from drugs. If placed on intensive supervised probation, he said that he would go to school, stay away from drugs, follow curfew, and stay at home. He said that he would not run away again. He is currently in the ninth grade, but has not been to school since last year.

The probation officer's report showed that as of November 8, 2000, the juvenile probation department had received seven referrals on appellant. These referrals were for theft, unlawfully carrying a weapon, runaway, truancy/runaway, runaway, possession of marijuana, and unauthorized use of a motor vehicle. This report also shows that appellant, while in detention, had several behavioral incident reports. He disobeyed orders, was in possession of contraband, and failed to carry out assignments. His parents reported that in the last six months appellant's problems had escalated because he was not obeying curfew, taking their vehicles without permission, and running away. Appellant admitted to substance abuse, which began at approximately age eleven with alcohol. He began using marijuana at age fourteen, and he has experimented with cocaine and LSD. A psychological evaluation showed that appellant is rebellious and has oppositional and defiant tendencies as well as lack of responsibility, self-centeredness, and impulsivity.

On December 13, 2000, the trial court signed an order, placing appellant on official probation until his seventeenth birthday and ordered that the rules of probation include placement in boot camp. To support this disposition the trial court found that (1) reasonable efforts have been made to prevent or eliminate the need for appellant to be removed from the home and to make it possible for appellant to return to his home, (2) appellant, in his home, cannot be provided the quality of care and level of support and supervision that he needs to meet the conditions of probation without some assistance, and (3) appellant's best interest and that of the community will be served by placing him on probation outside the home at the J.U.S.T.I.C.E. Long Term Boot Camp Program until successfully completed.

We hold that the trial court made the required findings to support its placement of appellant on probation outside the home in boot camp. See Tex. Fam.Code Ann. § 54.04(c),(i) (Vernon 1996). We hold that the trial court did not abuse its discretion in making this disposition and that the evidence is factually sufficient to support the trial court's disposition. The trial court's findings are not so against the great weight and preponderance of the evidence that they are manifestly unjust. We overrule the point of error.

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