Juvenile Law Case Summaries

By
Robert O. Dawson
Bryant Smith Chair in Law
University of Texas School of Law

2002 Case Summaries 2001 Case Summaries 2000 Case Summaries 1999 Case Summaries

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Court of Criminal Appeals remands question of admissibility of statement taken out-of-state to Court of Appeals [Vega v. State] (02-3-15).

On June 26, 2002, the Court of Criminal Appeals considered the question of the admissibility of a statement given by respondent to the Chicago Police Department that complied with Illinois law but not with Texas law. The court decided that the Court of Appeals should first address the question under Texas law as to the admissibility of such a statement.

02-3-15. Vega v. State, ___ S.W.3d ___, No. 337-01, 2002 WL 1379247, 2002 Tex.Crim.App.Lexis ___ (Tex.Crim.App. 6/26/02) [Texas Juvenile Law (5th Edition 2000).

Facts: In late December 1994, appellant and her boyfriend were implicated in a capital murder committed in Starr County, Texas. They fled to Chicago, Illinois, to stay with the boyfriend's aunt. Appellant was sixteen years old at the time of the charged offense. Texas authorities learned from relatives of appellant's boyfriend in Starr County that the two suspects were staying in Illinois. Starr County deputies sent a teletyped message to the Chicago Police Department, advising that Texas warrants had been issued for the two suspects. The message contained the address and telephone number of the home in which the Texas deputies believed appellant was staying. The Chicago police arrested appellant at that address.

Following Illinois law, the police obtained a written statement from appellant. It is undisputed that, while correct under Illinois law, the procedures followed in obtaining the statement, as well as the format of the statement itself, were not in compliance with Title 3 of the Texas Family Code. Appellant claims that, because the statement does not comply with Texas law, it was inadmissible at trial. The state argues that, because appellant was in Illinois when she gave the statement, Illinois law should apply and that the statement was admissible under Illinois law.

Held: Reversed and remanded to Court of Appeals.

Opinion Text: In holding that appellant's statement was inadmissible, the court of appeals relied upon our holding in Davidson v. State, 25 S.W.3d 183 (Tex.Crim.App.2000), to guide its analysis as to the admissibility of appellant's confession. Vega v. State, 32 S.W.3d 897, 901 (Tex.App.-Corpus Christi 2000) [Juvenile Law Newsletter 00-4-23]. In Davidson, we held that, because art. 38.22 § 3(a) of the Texas Code of Criminal Procedure was procedural in nature, a trial judge is required to apply Texas law to determine the admissibility of an oral confession obtained in another state. Davidson, 25 S.W.3d at 185-6. We also held that because the mandatory requirement of art. 38.22, § 3(a), that an oral custodial statement must be recorded before it can be used against a defendant, was not followed by the authorities in Montana, appellant's oral confession was inadmissible at his Texas trial. Id. at 186.

Although art. 38.22 § 3(a) of the Code of Criminal Procedure and Title 3 of the Family Code deal with the same general subject, the persons involved and the objectives of the two provisions are different. Vasquez v. State, 739 S.W.2d 37, 42 (Tex.Crim.App.1987). Like the current version, the 1994 version of Title 3, Juvenile Justice Code, began with a statement of purpose and interpretation. In pertinent part, section 51.01 stated that the title "shall be construed" to "to protect the welfare of the community and to control the commission of unlawful acts by children," and "to provide a simple judicial procedure through which the provisions of this title are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced." Tex. Fam.Code Ann. § 51.01 (1994). Unlike the language in art. 38.22, the legislature did not mandate that Title 3 be "strictly" construed.

The holding in Davidson applies here only if art. 38.22 prevails over Title 3 of the Family Code. Here, the challenged statement was written and therefore did not violate the provisions of art. 38.22. In addition, this Court has held that, pursuant to the Code Construction Act, the sections of the Family Code relevant to confessions prevail over art. 38.22. Lovell v. State, 525 S.W.2d 511, 514

(Tex.Crim.App.1975). Thus, it is Title 3 that controls issues concerning juvenile confessions, not art. 38.22. See Griffin v. State, 765 S.W.2d 422, 427 (Tex.Crim.App.1989). This is not a Davidson case by statute, circumstances, or command to "strictly construe." Davidson is, therefore, inapplicable here. Because appellant was a juvenile at the time she gave her statement, its admissibility must be determined under Title 3 of the Family Code.

Traditional conflict-of-law principles prescribe that issues that are strictly procedural in nature are governed by the laws of the forum state, whereas issues that are substantive in nature require an analysis of which state has the most significant relationship with the communication in question. Gonzalez v. State, 45 S.W.3d 101, 104 (Tex.Crim.App.2001) citing Restatement (Second) of Conflict of Laws § 139 (1971). A substantive right has been defined by this Court as a right to the equal enjoyment of fundamental rights, privileges, and immunities or a right that can be protected or enforced by law. Gonzalez, 45 S.W.3d at 106 n.8, citing Black's Law Dictionary (5 th ed.1983 & 7 th ed.1999). A procedural right is a right that helps in the protection or enforcement of a substantive right. Gonzalez at 106 n.8 citing Black's Law Dictionary (7 th ed.1999).

Here, the state argues that Title 3 is substantive in nature because it arose out of the desire to bestow constitutional rights and protections upon juveniles facing delinquency proceedings. Appellant, on the other hand, says that Texas courts and the Texas legislature have mandated that the Family Code's procedural provisions on the taking of a juvenile statement be strictly followed and that this Court has held that juvenile confessions warrant special procedural considerations and protections. See e.g. Comer v. State, 776 S.W.2d 191 (Tex.Crim.App.1989); Vie Le v. State, 993 S.W.2d 650 (Tex.Crim.App.1999).

There are, under Texas conflict-of-law principles, several factors to consider in determining which jurisdiction has the most significant relationship to the case, including: 1) where the injury or unlawful conduct occurred; 2) the place where the relationship between the parties is the strongest; 3) the number and nature of contacts that the non-forum state has with the parties and with the transaction involved; 4) the relative materiality of the evidence that is sought to be excluded; and 5) the fairness to the parties. Restatement (Second) of Conflict of Laws §§ 6, 145 (1971); Gonzalez, 45 S.W.3d at 104 n. 4 (Tex.Crim.App.2001) citing Restatement (Second) of Conflict of Laws § 139 (1971).

Here, a Texas resident is charged with an offense committed in Texas, and the non-forum's contact with the parties was limited to one occasion on which apparently unrequested questioning was done and a highly material statement obtained. The statement was obtained in Illinois, but Illinois has no interest in the offense or appellant. All these factors militate for application of Texas law. Only resolution of the issue of fairness is not obvious.

Illinois has a similar method of determining which state has the most significant relationship to the case. The Illinois Supreme Court found several factors important in determining which state's law would apply: where the crime was committed, where the crime was being prosecuted, where the defendant resided, in which state the defendant maintained his citizenship, where the majority of witnesses resided, and who would testify at trial. People v. Saiken, 275 N.E.2d 381, 385 (Ill.1971). All of these factors also favor the application of Texas law to substantive issues. Because the conflict-of-law schemes of both states militate for the application of Texas substantive law, the question of which directives in Title 3 are substantive and which procedural is not relevant here.

As set out in the opinion of the court of appeals, Appellant raised thirteen complaints in regard to violation of the Texas Family Code.

Issue 1: § 52.02; appellant was not taken without unnecessary delay to a place designated in this section.

Issue 2: § 52.025; Chicago police failed to interview appellant in an approved juvenile processing center.

Issue 8: §§ 51.12 & 52.025; appellant was not detained in a facility approved by Texas authorities.

Appellant was taken to an equivalent Illinois facility. To hold that such actions were not sufficient to satisfy Texas' concerns would make impossible any apprehension of a Texas juvenile offender anyplace outside of Texas and would not advance Texas public policy as expressed in § 51.01.

Issue 3: § 51.09 & 52.04; Chicago police failed to have an authorized officer of the Texas juvenile court decide whether appellant should be further detained.

Issue 4: § 51.09; appellant's written statement does not contain all of the warnings required.

The warnings set out in § 51.09(b)(1)(A-D) are essentially the Miranda warnings. Appellant received those warnings at least three times. Additional warnings in § 51.09(b)(1)(E-F) required that a child over the age of 15 be told that he or she could be transferred to adult court for trial, and, if involved in a murder, that commitment to the Youth Commission could include transfer to adult prison. Appellant was informed of Illinois law, which while technically incorrect, accurately conveyed the possibility of being treated as an adult when accused of murder.

Issue 12: § 51.12; appellant was detained in an area where adults arrested for, or charged with, a crime are detained.

The language of this subsection is "a child shall not be detained in or committed to a compartment of a jail or lockup in which adults arrested for, charged with, or convicted of crime are detained or committed, nor be permitted contact with such persons." A reasonable inference is that the legislature intended to prohibit putting a juvenile into circumstances in which the juvenile might be victimized by adult offenders. This is supported by the current § 51.12(f), which states that a child who is detained in a building which contains an area of secure confinement "shall be separated by sight and sound from adults detained in the same building." Tex. Fam.Code Ann. § 51.12(f) (2002). Appellant was held in an interrogation room. She was at all times kept separate from adult offenders.

As to the above complaints, Illinois authorities, by following Illinois law, also complied with Texas law to the extent necessary to carry out Texas' intended purpose and public policy. We now address appellant's remaining complaints.

Issue 5: § 51.09; appellant's written statement does not contain a certificate by a magistrate that appellant knowingly, intelligently and voluntarily waived her rights before making the statement.

Issue 6: § 51.09; appellant was never advised of her rights by a magistrate before being interrogated.

Issue 7: § 51.09; appellant was never presented before a magistrate at any time before giving her statement.

Issue 9: § 52.025; appellant was detained for more than six hours before the conclusion of her statement.

Issue 10: § 51.09; appellant's statement was not signed in the presence of a magistrate with no law enforcement officer present.

Issue 11: § 51.09; appellant's statement was signed in the presence of at least one law enforcement official who was armed.

Issue 13: § 52.025; appellant was improperly left unattended in the interview room.

Appellant arrived at the police station at about 10:45 a.m. Her written statement was signed at about 9:40 p.m. As permitted by Illinois law, the youth officer who presided at the signing was an armed police officer. Appellant was left alone in the interrogation room for several periods before she was taken to the juvenile holding facility. From the record at hand, it appears that appellant was not taken before a magistrate. All of these circumstances violate provisions of Title 3.

However, a violation of the Family Code in this particular case does not necessarily dispose of the issue of admissibility. The holdings in our previous decisions in this area dealt with violations of § 51.095 by Texas law enforcement officers. When a law enforcement officer violates the laws of his or her own state, even while acting in good faith, exclusion of the evidence is appropriate because this remedy serves to deter future violations. State v. Mayorga, 901 S.W.2d 943, 946 (Tex.Crim.App.1995). Here, automatically excluding appellant's statement will not have a similar deterrent effect on the arresting officers; Illinois police will continue to comply with their own laws and procedures. Rather, the analysis should examine the effect of the absence of a magistrate on the admissibility on the challenged statement in a context of fairness to the parties, both the state and appellant, with the focus being on the purpose expressed in § 51.01: "to provide a simple judicial procedure through which the provisions of this title are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced." Tex. Fam.Code Ann. § 51.01 (2002).

We, therefore, reverse and remand to the court of appeals for such an analysis.

COCHRAN, J., filed a concurring opinion in which WOMACK and HOLCOMB, J.J., joined.

In 2001, the Texas Legislature amended Article 38.22 of the Texas Code of Criminal Procedure. That amendment provided that Texas courts may admit an accused's custodial statement that was obtained in another state in compliance with that state's laws, even though the taking of the statement did not comply with all of the requirements of Article 38.22. Presumably, that legislative change was a reaction to this Court's opinion in Davidson v. State, 25 S.W.3d 183 (Tex.Crim.App.2000). The amendment reflects the common sense notion that we cannot (and should not) expect police officers in other jurisdictions to know and apply Texas confession law when they take a suspect's statement in their own jurisdiction. Those officers should, instead, comply with the applicable laws of their own jurisdiction. [FN1] If they do so, article 38.23, section 8 explicitly permits Texas courts to admit the resulting statements.

FN1. See, e.g., Robert O. Dawson, TEXAS JUVENILE LAW 43 (5th ed. 2001 Supp.) ("it seems a much more sensible rule to judge the admissibility of a statement in accordance with the circumstances in existence at the time and place of questioning than later retroactively in accordance with the law of the forum state").

Although the Legislature amended the Code of Criminal Procedure to effect this change, it did not amend the corresponding Family Code provision concerning the admissibility of a juvenile's statements. [FN2] We can speculate about its reasons, but the fact remains that the Legislature did not amend Family Code section 51.09 to provide for the admissibility of a juvenile's custodial statements taken in compliance with another jurisdiction's law concerning a juvenile's statements. Until and unless the Legislature acts, we should follow the applicable Family Code provisions and our previous choice-of-law decisions.

FN2. The same rationale that led the Legislature to amend Article 38.22 might well apply to the taking of a juvenile's statements. Perhaps the Legislature simply overlooked the juvenile's confession statute. Or perhaps the Legislature intended that its Section 8 amendment to article 38.22 also apply to statements given by juveniles in foreign jurisdictions who are later certified to stand trial as adults, because Section 8 of article 38.22 begins with the statement:

Notwithstanding any other provision of this article, a written, oral, or sign language statement of an accused made as a result of a custodial interrogation is admissible against the accused in a criminal proceeding in this state if ...

Tex.Code Crim. Proc. art. 38.22 § 8 (Vernon Supp.2001). See Dawson, supra at 44 (suggesting that section 8 of article 38.22 "effectively abrogates [court of appeals' decision in] Vega, but leaves unchanged the possibility that a court may follow Vega in a juvenile case in which the child was not certified to criminal court for prosecution as an adult").

In any event, this provision applies only to the admission of statements made on or after September 1, 2001. Appellant gave her statement to Illinois police on December 28, 1994. Thus even if the Legislature intended for this provision to apply to statements made by a juvenile who is later certified to stand trial as an adult, it would not apply to appellant's statement, which she made more than five years before the amendment's effective date.

Therefore, I join the Court's opinion.

Keller, P.J., filed a dissenting opinion in which KEASLER and HERVEY, J.J., joined [omitted].

[Editor's Comment: Presiding Judge Keller wrote a lengthy dissent in which she argued that Davidson v. State should be overruled. Since Davidson is a criminal case that under the majority view in this opinion does not apply to juvenile statements, I have omitted that opinion here, but recommend it to any readers desiring a comprehensive discussion of the issue.]

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