Juvenile Law Case Summaries

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Requiring parental notice of reason for taking into custody doesn't require notice of interrogation purpose [Hampton v. State] (02-4-06).

On September 25, 2002, the Court of Criminal Appeals held that telling a juvenile's mother that he was being arrested on a directive to apprehend for probation absconding complied with statutory notice requirement. Officer was not then or later required to notify parent that child might be questioned about murder.

02-4-06. Hampton v. State, ___S.W.3d ___, No. 449-01, 2002 WL 31116647, 2002 Tex.Crim.App.Lexis ____ (Tex.Crim.App. 9/25/02) Texas Juvenile Law (5th Ed. 2000).

Facts: When police officers took appellant, a juvenile, into custody, they told his mother that they were doing so because he had absconded from juvenile probation. The next morning, without re-establishing contact with appellant's mother, an Odessa officer questioned appellant about a March 1999 murder. Appellant gave a videotaped statement in which he admitted to killing the victim. Because we find that the police officer properly notified appellant's mother "of the reason for taking the child into custody," as required by Family Code section 52.02(b), he was not also statutorily required to tell her that he suspected her son of committing a murder or to notify her again before questioning appellant. In a separate issue, we also find that the court of appeals erred in confusing the standard for reversal for Brady error with the standard for reversal for constitutional error under Tex.R.App. P. 44.2(a). We therefore reverse the El Paso Court of Appeals' decision that the officer violated section 52 .02(b) and therefore illegally obtained appellant's confession. Hampton v. State, 36 S.W.3d 921, 924 (Tex.App.-El Paso 2001) [Juvenile Law Newsletter 01-1-13]. We remand the case to the court of appeals for it to determine whether appellant has demonstrated that the State's failure to timely produce a police officer's supplementary report was material and thus created "a probability sufficient to undermine ... confidence in the outcome of the proceeding."

On March 18, 1999, Jarvis Preston and his sister, Lashara Preston, were watching TV when they heard gunshots outside Lashara's apartment at La Promesa Apartments in Odessa, Texas. Two or three minutes later, they saw someone run past her back window in the alley. Jarvis recognized that person as the appellant, "Tweet." Appellant was standing on the back porch and said, "Open the door for me." Lashara did not want appellant to come inside, but Jarvis considered appellant "just like a home boy," and so he asked Lashara for the keys to her car and offered to drive appellant home. Appellant told Jarvis that he thought he had shot somebody in self-defense. Appellant and Jarvis then spent the rest of the night driving around.

Meanwhile, police officers responded to a 911 call, came to the apartment complex, and found the body of William Nance, who had been shot to death. During their investigation, the officers obtained information which focused suspicion on appellant as the shooter. Four days after the murder and upon discovering that appellant was a probation absconder, Detective McCann and other officers arrested appellant at his friend's apartment. When appellant heard police officers at the front door, he ran out the back, but the officers caught him.

Appellant's mother, Deborah Jackson, arrived at the friend's apartment while the Odessa police were taking her son into custody. She asked Det. McCann why they were taking appellant into custody and he told her that they were picking him up for a probation violation-he was an absconder from juvenile probation. She told Det. McCann that appellant was a juvenile. [FN5]

FN5. Under Texas law, a person who is not yet seventeen is a juvenile and police must deal with that person according to the terms of the Juvenile Justice Code which contains specific procedural protections, even though that person may later be certified to stand trial in an adult district court. Upon his seventeenth birthday, a person is an adult for purposes of the Texas criminal justice system, including all arrest and police interrogation purposes, even though he may already be under the supervision of the juvenile justice system.

Det. McCann, mistakenly believing that appellant was seventeen because he had booking photos and information from the Sheriff's Department that appellant had previously been arrested as an adult, drove him to the Odessa police station instead of the Ector County Youth Center. Appellant subsequently admitted to the detective that he had lied about his age when he was previously arrested by the Sheriff's Department and that he was really just sixteen. Det. McCann called the Youth Center to verify that appellant was indeed still a juvenile. Meanwhile, Det. McCann asked appellant several times if he wanted to give a statement at some time, although he did not ask him any questions. At first appellant was very "vocal and profane," but he soon "settled down" and said he would give a statement. Once appellant's age was verified, Det. McCann drove appellant to the Youth Center at about 12:30 a.m. and left him in the center's custody.

Det. McCann returned the next morning, was permitted to check appellant out of the juvenile detention center, and took him back to the police station, where a magistrate advised appellant of his rights and asked him whether he wanted to waive those rights and talk to Det. McCann. Appellant did. Both appellant's interview with the magistrate and his two hour interview with Detective McCann were videotaped and transcribed. Appellant stated that he had killed Mr. Nance, but claimed that he shot in self-defense.

Appellant explained that he had been at an apartment with several people that night, talking and watching TV while they smoked crack cocaine. At about 4:00 a.m., Appellant went outside to visit another friend and saw Mr. Nance. Appellant stated that Mr. Nance wanted some dope and he mistakenly thought appellant sold drugs. When appellant told Mr. Nance that he was not a drug dealer, Mr. Nance became hostile and threatening. As Mr. Nance started toward appellant, Nance slipped and appellant pulled his gun out of his pants and cocked it. The victim hit appellant's hand and the gun "went off." According to appellant, he started to run away, but Mr. Nance kept coming after him and so he shot twice more. He then ran back to the apartment where he had been watching T.V., but his friends refused to let him come in. They threw his jacket out to him, and he then ran to the apartment where Jarvis Preston and his sister were. While Det. McCann was questioning appellant at the police department, Ms. Jackson called the Youth Center to see how appellant was doing. She was told that a police officer had checked him out of the facility. She then called the Odessa police department and discovered that an officer was questioning her son about a murder.

Appellant filed a pretrial motion to suppress his videotaped confession. He claimed, inter alia, that Det. McCann did not notify appellant's mother that, although appellant was taken into custody as a juvenile probation absconder, the police also suspected him of killing Mr. Nance. After hearing testimony, the trial judge denied the motion to suppress and admitted appellant's videotaped statement at trial.

Other evidence offered by the State at trial included the eyewitness testimony of John Cooper, who testified that he was "smoking crack" at a friend's apartment. Looking out the upstairs window, he had seen appellant, whom he knew as "Tweet," and another man outside arguing. After he turned away from the window, he heard a gunshot. When he looked back out the window, he saw a man run across the street and fall down. He also saw appellant with his arm extended and heard several more shots. Mr. Cooper said that appellant was the only other person in the area.

Fourteen-year-old Anthony Tuda testified that he was asleep in his bed at La Promesa Apartments at about 4:20 a.m. on March 18th when he heard a gunshot. He got up and looked out his window and saw "the one that got shot, he, like, struggled across the street and just fell down." He said he saw three people in all, the victim and two other people. Anthony Tuda explained that, at first, he saw only the shooter and his victim, but then after the shooter ran away, he thought he saw someone else drive off in a pick-up truck. He did not recognize any of the people. He called 911.

Andrea Travioli testified that she was at the apartment at La Promesa that night with appellant. He left, she heard shots, then, shortly thereafter, appellant banged on the door and said he needed his jacket because he "need[ed] to get the hell out of here." Jermaine Session testified that appellant came to his apartment the next morning and told him he had argued with Mr. Nance and shot him. Jason Yielding testified that appellant later came to his apartment and asked him for ride into the country. Jason did so and saw appellant throw a sack out of the window at a location where officers later recovered parts of a gun of the same type used to kill Mr. Nance.

After all of the State's witnesses testified, appellant's attorney told the judge that he had just discovered that the prosecutor had a supplemental police report which he had not previously seen. He said that this report, prepared by Sgt. Roberts of the Odessa Police Department, contained potentially exculpatory information, namely the first names of two girls who had lived in the apartment complex when the shooting occurred (but who had since moved). Appellant's attorney said that the girls told police officers shortly after the murder that they had seen two black males running away from the shooting scene, one of whom was Jarvis Preston, appellant's friend who drove him away from the murder scene. Appellant requested a continuance for his investigator to try to track down the two missing girls. The trial judge denied this request and then appellant asked for a mistrial which was also denied. Appellant did not file a motion for new trial or request a hearing to present further evidence relating to this issue.

A jury convicted appellant and sentenced him to 35 years imprisonment. The El Paso Court of Appeals, finding that: 1) appellant's videotaped statement was taken in violation of section 52.02(b); and 2) the State's failure to disclose potentially exculpatory material

was harmful, reversed the conviction and ordered a new trial. We granted the State Prosecuting Attorney's petition for review.

Held: Reversed and remanded.

Opinion Text: Section 52.02(b) of the Texas Family Code requires a person who takes a juvenile into custody to promptly notify the child's parent and appropriate juvenile authorities of the detention and to state his reason. [FN9] The issue in this case is: What does the phrase "a statement of the reason for taking the child into custody" mean?

FN9. Section 52.02(b) provides:

A person taking a child into custody shall promptly give notice of his action and a statement of the reason for taking the child into custody, to:
(1) the child's parent, guardian, or custodian; and
(2) the office or official designated by the juvenile court.

Tex. Fam.Code § 52.02(b) (Vernon Supp.2002).

We apply the traditional standards of statutory construction to analyze whether Section 52.02(b) requires police officers to inform a parent, not only of the "reason the child [has been] taken into custody," but also: (1) whether they harbor any suspicions of other criminal conduct; and (2) whether they must renotify a parent or guardian before questioning the child about the same or a different criminal offense. We look solely to the plain language of the statute for its meaning unless the text is ambiguous or application of the statute's plain language would lead to an absurd result that the Legislature could not possibly have intended.

Under the plain language of Section 52.02(b)(1), an officer must inform a child's parent of "the reason" for taking the child into custody. That is, police must provide a parent with the legal justification for the officer's action. [FN11] Appellant argues that Section 52.02(b) "was adopted for children to have a knowing and intelligent advisor when faced with the intimidating prospect of law enforcement questioning." Section 52.02(b), on its face, does not require police to renotify parents or custodians concerning their suspicions of criminal conduct other than that for which the child has been taken into custody. This statute uses the singular; parents must be told of "the reason" for taking the child into custody. The statute does not say that a parent must be informed of "the legal reason for taking the child into custody, and any other suspicions." Both the plain words and the plain meaning of Section 52.02(b) are directed toward informing the parent of his child's whereabouts and the legal justification for taking him into custody. [FN12] Interpreting the statutory phrase "a statement of the reason for taking the child into custody" according to its plain meaning does not lead to an absurd result, nor does appellant contend otherwise.

FN11. In In re S__ R__ L__, 546 S.W.2d 372 (Tex.Civ.App.-Waco 1976, no writ), the Waco Court of Appeals rejected a contention similar to appellant's:

Appellant contends that [Section 52.02(b)] was violated because the detective failed to tell the father that his reason for taking appellant into custody was to take a confession, and that the confession was therefore inadmissible. We disagree. The evidence shows that the reason appellant was taken into custody was the criminal offense involving the coin-operated machine. The statute was satisfied when the detective told the father about this charge against appellant.

Id. At 373. At the time S__ R__ L__ was taken into custody, the State had filed a motion to revoke probation alleging that he had committed the offense of theft from a coin-operated machine. Id. Based on S__ R__ L__, Professor Dawson concludes that " 'Reason for taking the child into custody' means the offense for which he was arrested, not the purpose of the officer in making the arrest." Robert O. Dawson, TEXAS JUVENILE LAW 301 (5th ed.).

FN12. The various legal justifications for taking a child into custody are set out in Family Code Section 52.01(a). One of those justifications is a "directive to apprehend" issued by the juvenile court under Section 52.015. A juvenile probation absconder warrant is one such "directive to apprehend."

In this case, there is no dispute that Det. McCann complied with Section 52.02(b)(1) by informing appellant's mother that he was taking appellant into custody because he was a probation absconder. However, the court of appeals assumed that, even if law enforcement authorities initially comply with Section 52.02(b)(1) by notifying a parent and giving that person an accurate statement of their legal reason for taking a child into custody, they must notify the parent again before questioning the juvenile about any other offense. The court of appeals stated:

Although police initially informed Hampton's mother that he was being taken into custody on a juvenile absconder warrant, they did not tell her of the murder charge [sic] [FN13] until Hampton was in the process of making his statement, and then only when she called authorities to find out about her son's status.

FN13. There is no evidence in the record that appellant was "charged" with murder until some time after he gave his videotaped statement. The record does reflect that appellant was indicted for murder on June 25, 1999. There is nothing in the record to indicate when a petition alleging murder was filed in the juvenile court.

Appellant was "suspected" of having committed a murder at the time Det. McCann took him into custody, but that was not the reason Det. McCann took him into custody. Det. McCann testified: "He wasn't locked up for the murder the night before. He was locked up for being an absconder." He repeatedly testified that appellant was not under arrest as a murder suspect.

Clearly, when Det. McCann took appellant into custody on the probation absconder warrant, he wanted to question appellant about Mr. Nance's murder. That fact is not in dispute. But we find no statutory requirement that law enforcement officers must renotify a juvenile's parents before questioning him, whether on the same or a different offense, once they have initially complied with Section 52 .02(b)(1). The triggering event for purposes of parental notification is the act of taking a juvenile into custody. It is not the subsequent act of questioning the juvenile. The "reason" for taking the child into custody is the officer's legal justification, not his subjective motives. [FN15]

FN15. See In re S__ R__ L__, 546 S.W.2d at 373; cf. Whren v. United States, 517 U.S. 806 (1996) (when traffic violation itself constitutes an objectively reasonable basis for stop and detention, any subjective motive on the part of officers is irrelevant); Walter v. State, 28 S.W.3d 538, 543 (Tex.Crim.App.2000).

Appellant argues that the court of appeals found that Det. McCann failed to notify the appropriate juvenile authorities that appellant had been taken into custody as an absconder from juvenile probation, as he was required under Section 52.02(b)(2). The record, however, reflects that as soon as appellant told Det. McCann that he really was a juvenile, not an adult, the detective called the Ector County Youth Center to verify appellant's age. [FN16] Once he verified appellant's age, Det. McCann told the juvenile intake officer that he was bringing appellant to the Center as a probation absconder. Det. McCann then promptly delivered appellant to the Youth Center.

FN16. Det. McCann testified that any delay in taking appellant to the juvenile detention facility was because appellant had previously lied about his age to the Sheriff's Department and Det. McCAnn needed to verify his age with the juvenile facility before taking any further action.

A reviewing court must evaluate the historical facts in the light most favorable to the trial court's ruling. The record facts in this case, viewed in the light most favorable to the trial court's ruling, support the trial court's implicit factual finding that Det. McCann promptly notified appellant's mother and the juvenile authorities of appellant's detention and gave each "a statement of the reason" for taking appellant into custody. For mixed questions of law and fact, however, a reviewing court uses a de novo standard of review. The meaning of words and phrases used in a statute is a question of pure law; and the application of the scope of a statute to specific, undisputed historical facts is a mixed question of law and fact. Both of these matters are reviewed de novo at each appellate level. Under that standard, we find that Det. McCann complied with the requirements of Section 52.02(b), in that he promptly notified both appellant's mother and the appropriate juvenile authorities that he had taken appellant into custody and informed them of his reason for doing so. We therefore sustain the State's first ground for review.

Finding no violation of Section 52.02(b), we need not address whether appellant has demonstrated a causal connection between a violation of that statute and the making of his videotaped statement. Therefore, we dismiss the State's second ground for review.

[Discussion of Brady v. Maryland claim omitted.]

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