

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](#)

Transfer to TDCJ under determinate sentence act in hearing with mental health testimony upheld on remand from court of appeals [In re R.D.B.] (03-1-03).

On December 5, 2002, the Beaumont Court of Appeals agreed with counsel that the appeal from a transfer to TDCJ was frivolous. The case had initially been remanded by the court of appeals on the ground that counsel was ineffective in not obtaining the services of a mental health expert to testify at the release or transfer hearing. This time an expert testified and the juvenile court still transferred the juvenile.

03-1-03. In the Matter of R.D.B., UNPUBLISHED, No. 09-01-178-CV, 2002 WL 31740269, 2002 Tex.App.Lexis ____ (Tex.App.-Beaumont 12/5/02) Texas Juvenile Law (5th Ed. 2000).

Facts: This is the second appeal in this case. Previously, the Texarkana Court of Appeals reversed the trial court's judgment and remanded the cause for a new hearing after determining that appellant, R.D.B., had received ineffective assistance of counsel in his transfer hearing under Section 54.11 of the Family Code. In re R.D.B., 20 S.W.3d 255,258,261(Tex. App.-Texarkana 2000, no pet.) [Juvenile Law Newsletter 00-2-24]. [FN1] The Texarkana court concluded that trial counsel's failure to seek court-appointed assistance of a mental health professional in light of R.D.B.'s "plainly evident background of mental health problems" prejudiced R.D.B. and undermined the court's confidence in the outcome of the proceedings. Id. at 261.

FN1. The juvenile court found R.D.B. engaged in delinquent conduct by committing the felony offenses of aggravated assault, aggravated robbery, burglary of a habitation, and theft. The court then rendered a fifteen-year determinate sentence and ordered R.D.B. committed to the Texas Youth Commission, with possible transfer at age eighteen to the Institutional Division of the Texas Department of Criminal Justice. After R.D.B. attained the age of eighteen, he was returned to juvenile court for a release or transfer hearing pursuant to Tex. Fam.Code Ann. § 54.11 (Vernon 2002). At this hearing, the court ordered R.D.B. transferred from the Texas Youth Commission to the Institutional Division of the TDCJ to serve the completion of his fifteen-year determinate sentence.

On remand, a court appointed psychologist testified on appellant's behalf. The trial court, however, ordered appellant to be transferred to the custody of the Texas Department of Criminal Justice, Institutional Division, for the completion of his fifteen year sentence.

After perfecting appeal, appointed counsel filed a brief asserting that the appeal is frivolous. The brief complies with the requirements of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and *High v. State*, 573 S.W.2d 807 (Tex.Crim.App.1978). The brief concludes that no error that would arguably support an appeal is presented, a conclusion with which we concur.

The procedures set out in *Anders* and its Texas progeny apply to juvenile appeals. In re D.A.S., 973 S.W.2d 296, 299 (Tex.1998). Further, in the instant case, R.D.B., who is no longer a juvenile, was given the opportunity to file a pro se brief. As of this date, no pro se brief has been filed.

We have carefully reviewed the record and counsel's brief, and find no error requiring us to order appointment of new counsel. Accordingly, we affirm the trial court's judgment.

[2001 Case Summaries](#) [2000 Case Summaries](#) [1999 Case Summaries](#)