

CRIMINAL APPEALS

THE COURT OF CRIMINAL APPEALS VACATED MOON V. STATE IN THIS OPINION

EX PARTE STEVEN THOMAS, Applicant

NO. WR-89,128-01

IN THE COURT OF CRIMINAL APPEALS TEXAS

Facts: A juvenile court may waive its exclusive original jurisdiction and transfer a juvenile case to the appropriate district court for criminal proceedings if certain statutory and constitutional requirements are met. Applicant Steven Thomas, at 16, committed capital murder. When he was 19, the juvenile court waived its exclusive jurisdiction and transferred Applicant's case to district court, where Applicant pleaded guilty to a lesser charge of murder. Decades passed. Applicant did not appeal his transfer or his case or file a writ of habeas corpus. Then, this Court decided *Moon v. State*, 451 S.W.3d 28 (Tex. Crim. App. 2014). In that case, we held that if an order waiving juvenile jurisdiction does not contain factually-supported, case-specific findings, then the order is invalid. As discussed below, that holding necessarily means that, in such circumstances, a district court never acquires jurisdiction. Based upon *Moon*, Applicant argues that because the order waiving juvenile jurisdiction did not contain factually-supported, case-specific findings, it was invalid, and thus the district court never acquired jurisdiction. Then, this Court decided *Moon v. State*, 451 S.W.3d 28 (Tex. Crim. App. 2014). In that case, we held that if an order waiving juvenile jurisdiction does not contain factually-supported, case-specific findings, then the order is invalid.¹ As discussed below, that holding necessarily means that, in such circumstances, a district court never acquires jurisdiction. Based upon *Moon*, Applicant argues that because the order waiving juvenile jurisdiction did not contain factually-supported, case-specific findings, it was invalid, and thus the district court never acquired jurisdiction.

In August 1996, the State filed a petition in the Harris County juvenile court alleging that Applicant committed capital murder while under the age of 17, and the clerk assigned it a juvenile cause number. Applicant was 18. The State also asked the juvenile court to waive juvenile jurisdiction and certify the proceedings to district court. Counsel was appointed. On October 14, 1996, the State filed an amended petition and amended motion to waive jurisdiction. Applicant meanwhile had turned 19. On October 21, 1996, Applicant was brought from federal prison to the 315th Juvenile District Court. The juvenile court ordered a complete diagnostic study; a social evaluation; and a full investigation of Applicant, his circumstances, and the circumstances of the alleged offenses, and reset the case. Applicant refused the psychological and psychiatric evaluations on the advice of his attorney.

After the study, a hearing on the waiver of jurisdiction, and legal briefing on the due-diligence aspect of transfer,⁹ the 315th Juvenile District Court waived its jurisdiction and transferred Applicant's case to the 180th District Court. The transfer order was three pages long.

The order waiving jurisdiction in juvenile court and transferring Applicant to the Criminal District Court of Harris County, Texas, for criminal proceedings referenced:

- that the Section 54.02 hearing that was held;
- that, before that, the Court had ordered and obtained a diagnostic study, social evaluation, a full investigation of the child, his circumstances, and the circumstances of the alleged offenses;
- that counsel was appointed before the hearing and was given access and time to consider all written matter to be considered by the Court in making the transfer decision;
- that Applicant, his counsel, his father and his mother were present;
- that Applicant was charged in the amended petition with violation of a penal law of the grade of felony if committed by an adult, to wit: CAPITAL MURDER (FIVE COUNTS);
- that there has been no adjudication of these offenses;
- that Applicant was between fifteen and seventeen years of age at the time of the commission of the alleged offenses;
- that there is probable cause to believe that Applicant committed the offenses alleged and that because of the seriousness of the offenses, the welfare of the community requires criminal proceedings;
- that, by a preponderance of the evidence that after due diligence of the State, it was not practicable to proceed in juvenile court before the Applicant's 18 birthday;
- that the court considered:
 1. Whether the alleged offenses were against person or property, with the greater weight in favor of wavier given to offenses against the person;
 2. Whether the offenses were committed in an aggressive and premeditated manner;
 3. Whether there is enough evidence upon which the grand jury may be expected to return an indictment;
 4. The sophistication and maturity of the child;
 5. The record and previous history of the child; and
 6. The prospects of adequate protection of the public and the likelihood of reasonable rehabilitation of the child by use of procedures, services and facilities currently available to the Juvenile Court;
- that Applicant is of sufficient sophistication and maturity to have intelligently, knowingly and voluntarily waived all constitutional and statutory rights heretofore waived and to have aided in the preparation of his defense;

- that the offenses alleged to have been committed were against the person of another and were committed in an aggressive and premeditated manner;
- that there has been no adjudication of said offenses;
- that evidence was presented concerning the alleged offenses upon which a grand jury may be expected to return an indictment;
- that the evidence and reports heretofore presented to the Court demonstrate to the court that there is little, if any prospect of adequate protection of the public and likelihood of reasonable rehabilitation of Applicant by use of procedures, services and facilities currently available to the Juvenile Court;
- that the Judge instructed the child, his parents, and the child's attorney, of the child's right to appeal to the court of appeals, the right to representation by Counsel on appeal, and of the child's right to appointment of an attorney for appeal if an attorney cannot be obtained because of indigence; and
- that the attorney was instructed that if the child and his parents express a desire to appeal, the attorney shall file a notice of appeal with this Court and inform this Court whether or not he will handle the appeal.

Held: Given *Moon's* strained reasoning, its inconsistency with related decisions, and the legal developments since the decision, we explicitly overrule it.

Opinion: So What is Left of *Moon*?

Nothing. As discussed above, the requirement of case-specific fact findings to support the reasons for the transfer are not required by the text of the statute or constitutional precedent. To the extent that *Moon* establishes a new standard of review for sufficiency of a juvenile transfer order on direct appeal, that standard was tied to the requirement that the trial court enter case-specific fact findings justifying the transfer of jurisdiction.⁵⁷ Without *Moon's* requirement of case-specific fact-finding, that type of sufficiency review is unworkable. Our resolution of the cognizability issue in this case has implicitly overruled *Moon*. As set out above, *Moon* was flawed from the outset. Neither the statute's text nor the Supreme Court's holding in *Kent* required what *Moon* required. It was an unjustifiable, court-created expansion. *Moon* is also unworkable. It places unnecessary burdens on the system because individual sufficiency review of each factor can lead to internally inconsistent analysis of the reasons for transfer. The statute does not mandate that any particular factor be true, state that the factors are exclusive, or limit the purpose for which the statutory factors may be considered. Moreover, assuming that recitation of other statutory factors satisfies sufficiency review of each individual factor, *Moon* still requires sufficiency review of the factors collectively. *Moon* provides no guidance on how to conduct a review when the juvenile court has imported its own factors or when that analysis involves both factual and legal sufficiency. What the Legislature did do, in response to our decision in *Moon*, was repeal Article 44.47 of the Code of Criminal Procedure and add Section 56.01(c)(1)(A) to

the Family Code. That took review of these claims away from this Court and created a vehicle for immediate, interlocutory appeal to the courts of appeals and then to the Texas Supreme Court.⁷¹ This provides more immediate safeguards for juveniles being transferred to district court for trial as an adult than the facts specific finding requirement set out in *Moon*. The Texas Supreme Court has not addressed the method of analysis and review of orders transferring jurisdiction in juvenile cases,⁷³ but it is not bound by *Moon*. And decades of case law preceding *Moon* from this Court and our sister court alike remain as guidance for the appellate courts.

Conclusion: Given *Moon*'s strained reasoning, its inconsistency with related decisions, and the legal developments since the decision, we explicitly overrule it. A juvenile transfer order entered after the required transfer hearing and complying with the statutory requirements constitutes a valid waiver of jurisdiction even if the transfer order does not contain factually supported, case-specific findings. In the present case, the juvenile court conducted a transfer hearing. The transfer order complied with the statute by listing the reasons for the transfer. Therefore, the criminal district court had jurisdiction over the case. Applicant's post conviction writ is denied.