

JUVENILE CASE LAW UPDATE

JUVENILES WHO ARE SENTENCED TO LIFE IN PRISON MUST HAVE THE POSSIBILITY OF PAROLE

In this case, the juvenile committed an armed burglary at age 16 and on a subsequent probation revocation was sentenced to life in prison. In Florida, there is no parole system so the sentence had the result of placing the juvenile in prison for the rest of his life. The Supreme Court held that it violates the 8th Amendment of the United States Constitution to sentence a juvenile to life in prison without the possibility of parole. This case is unlikely to directly impact on Texas cases due to the fact that Texas already offers the possibility for parole for juveniles imprisoned for life.

CASE LAW CITE: Graham v. Florida, 560 U.S. ___ (2010)

IF A SUSPECT HAS A WEAPON, IT IS SUFFICIENT EVIDENCE TO PROVE THE CRIME OF ATTEMPT

A juvenile got into an argument with his mother's boyfriend. He picked up a knife, however his mother was able to remove the weapon from his hand. The victim never saw the knife. The court held that possession of the knife was enough to constitute attempted aggravated assault. The court indicated that attempt does not require that every act short of the actual offense be accomplished and in most cases having a weapon is preparation to commit the crime and sufficient evidence to prove attempt.

CASE CITE: In the Matter of V.R., 2010 Lexis 1911 (Tex. App. Waco, 03/10/10)

WHO OWNS THE STOLEN PROPERTY IN A SHOPLIFTING CASE?

In this case a juvenile was charged with shoplifting items from a Sears store. On appeal he argued that the loss prevention manager who testified as the victim in the case did not own the property that he stole. The court held that an owner is a person who has title to the property, possession of the property whether lawful or not, or a greater right to possession of the property than the actor. In the case of a corporation, that means any person who has managerial authority and responsibility over the goods. Thus, the loss prevention manager was an appropriate victim.

CASE LAW CITE: In the Matter of R.L.S., 2010 Lexis 2630 (Tex.App.-Eastland, 04/15/10)

IN ORDER FOR A CHILD'S CONSENT TO ENTER A HOME TO BE REASONABLE, THE POLICE MUST ASK QUESTIONS WHICH INDICATE THAT THE CHILD HAS AUTHORITY TO PERMIT ENTRY

A child gave consent to enter the home but it was unclear whether he lived in the home. The court held that the officer failed to ask whether the child lived in the home, if his parents were there, if he understood that he did not need to consent, or whether he wanted to talk to an adult at the home. These were necessary questions demonstrate a valid consent from the child. The court suppressed the evidence from the search.

CASE LAW CITE: Limon v. Texas, 2010 Lexis 4565 (Tex.App.-Corpus Christi-Edinburgh, 06/17/10)

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A CHILD UNDER THE AGE OF 14 CANNOT BE CHARGED WITH PROSTITUTION

The juvenile was 13 years old and was arrested for the offense of prostitution after she solicited an undercover officer. The court held that because a child under the age of 14 cannot consent to sex, they cannot be charged with the offense of prostitution. The court indicated that this is due to the fact that the laws against prostitution are intended to protect child victims and there is no indication that the legislature intended to subject them to criminal prosecution for such an offense.

CASE CITE: In the Matter of B.W., 2010 Tex. Lexis 446 (Tex.Sup. Ct., 06/18/10)