

IN THE SUPREME COURT OF TEXAS

No. 97-1146

IN THE MATTER OF N. J. A., RESPONDENT

ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Argued on November 17, 1998

JUSTICE BAKER delivered the opinion of the Court, in which JUSTICE ENOCH, JUSTICE OWEN, JUSTICE HANKINSON, JUSTICE O'NEILL and JUSTICE GONZALES joined.

JUSTICE ABBOTT filed a concurring and dissenting opinion, in which CHIEF JUSTICE PHILLIPS and JUSTICE HECHT joined.

In this case, we consider whether a juvenile court had jurisdiction over N.J.A., a juvenile defendant, who was eighteen years old when her adjudication hearing began. The court of appeals held that the juvenile court did not have jurisdiction over N.J.A., and, therefore, the juvenile court erred in signing an adjudication order after N.J.A. turned eighteen. ___ S.W.2d ___. We hold that the juvenile court did have jurisdiction over N.J.A., but that such jurisdiction was limited and did not include the authority to adjudicate N.J.A. after she turned eighteen. Therefore, we reverse the court of appeals' judgment, vacate the juvenile court's adjudication and disposition orders of N.J.A., and remand the case to the juvenile court for further proceedings consistent with this opinion.

I. FACTS

N.J.A. was born on October 21, 1977. On May 22, 1994, the date of the alleged offense, N.J.A. was sixteen. On November 1, 1994, when N.J.A. was seventeen, the State filed an original petition alleging delinquent conduct. In an attempt to certify N.J.A. as an adult and have her case transferred from juvenile court to district court for criminal proceedings, the State also filed a petition to waive jurisdiction. *See* TEX. FAM. CODE § 54.02(a). After a hearing, the juvenile court decided not to certify N.J.A. as an adult and retained her case in juvenile court. On April 25, 1995, the State filed an amended petition. N.J.A.'s delinquency trial began on January 30, 1996, when she was eighteen years old.

The juvenile court found that N.J.A. engaged in delinquent conduct and committed her to the Texas Youth Commission for an indeterminate sentence. The court of appeals reversed, holding that N.J.A. was not a "child" under section 51.02(2) of the Texas Family Code, and, therefore, the juvenile court did not have jurisdiction to try the case and sign an adjudication order. ___ S.W.2d at ___. While we hold that the juvenile court did have jurisdiction over N.J.A., we agree with the court of appeals that the juvenile court's jurisdiction did not include the authority to try an eighteen-year-old defendant and adjudicate her delinquent. The juvenile court's jurisdiction was limited to dismissing N.J.A.'s case or transferring her to district court under section 54.02(j) of the Family Code.

II. APPLICABLE LAW

The juvenile court is not a court of general jurisdiction. The Family Code provides the juvenile court's authority to act. *See* TEX. FAM. CODE §§ 51.01-60.009; *In the Matter of A.S.*, 875 S.W.2d 402, 403 (Tex. App.--Corpus Christi 1994, no writ). The juvenile court has exclusive,

original jurisdiction over all proceedings involving a defendant who is a “child” when the alleged offense occurred. *See* TEX. FAM. CODE § 51.04(a). The Family Code defines “child” as one who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

TEX. FAM. CODE § 51.02(2). Section 51.02(2) defines child as someone “under 18 years of age.”

TEX. FAM. CODE § 51.02(2).

Furthermore, section 54.05(b) of the Texas Family Code provides, “Except for commitment to the Texas Youth Commission, all dispositions automatically terminate when the child reaches his 18th birthday.” TEX. FAM. CODE § 54.05(b). Twenty-one is the maximum age for commitment to the Texas Youth Commission. *See* TEX. HUM. RES. CODE § 61.001(6). Because all dispositions, except for commitment to the Texas Youth Commission, terminate at age eighteen, the juvenile court, by implication, does not have the authority to conduct a disposition hearing after a child is eighteen years old. *See* TEX. FAM. CODE § 54.05(a), (b). Because an adjudication must necessarily precede a disposition, and the juvenile court does not have the authority to conduct a disposition hearing of a juvenile once she is eighteen years old, it follows that the juvenile court does not have the authority to adjudicate a juvenile who is eighteen years old or older either. Logically, once a juvenile becomes eighteen, the juvenile court’s jurisdiction does not include the authority to adjudicate the juvenile.¹ *See Dawson, Responding to Misrepresentations, Nondisclosures and*

¹The dissent complains that the Court ignores section 54.03 of the Family Code, which governs adjudication. But section 54.03 is irrelevant to our analysis here. Section 54.03 provides the procedural requirements of adjudicating a child. *See* TEX. FAM. CODE § 54.03. Section 54.03 does

Incorrect Assumptions About the Age of the Accused: The Jurisdictional Boundary Between Juvenile and Criminal Courts in Texas, 18 ST. MARY'S L.J., 1117, 1121-23 (1987)(even if the crime was committed before age seventeen, the juvenile court loses jurisdiction to adjudicate for delinquent conduct upon the defendant's eighteenth birthday).

However, section 54.02(j) of the Family Code does provide for a juvenile court's limited authority over a person who is eighteen years old or older. *See* TEX. FAM. CODE § 54.02(j). This section allows the juvenile court to waive its exclusive, original jurisdiction and transfer a person who is eighteen years old or older if certain criteria are met. It provides:

(j) The juvenile court may *wave its exclusive original jurisdiction and transfer a person* to the appropriate district court or criminal district court for criminal proceedings if:

(1) *the person is 18 years of age or older;*

(2) the person was:

(A) 14 years of age or older and under 17 years of age at the time he is alleged to have committed a capital felony, an aggravated controlled substance felony, or a felony of the first degree; or

(B) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony of the second or third degree or a state jail felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4) the juvenile court finds from a preponderance of the evidence that:

(A) for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B) after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i) the state did not have probable cause to proceed in juvenile court and new evidence has been found since the 18th birthday of the person;

(ii) the person could not be found; or

(iii) a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5) the juvenile court determines that there is probable cause to believe that

not implicate a juvenile court's authority to adjudicate a person who is eighteen years old or older.

the child before the court committed the offense alleged.

TEX. FAM. CODE § 54.02(j)(emphasis added).

III. ANALYSIS

The State argues that because N.J.A. was seventeen years old when the State alleged that she engaged in delinquent conduct, and because she committed the acts before she was seventeen, she falls under section 51.02(2)(B)'s definition of "child."

N.J.A. responds that although she was alleged to have committed the delinquent conduct before she turned seventeen, she turned eighteen before her trial began. Therefore, when tried, she was not a "child" under section 51.02(2)(B), and the juvenile court did not have jurisdiction over her.

N.J.A. relies on *Ex parte Mercado*, 590 S.W.2d 464 (Tex. Crim. App. 1979). In *Mercado*, the Court of Criminal Appeals stated in dicta that "[Juvenile court] jurisdiction is terminated by law at age eighteen." *Ex parte Mercado*, 590 S.W.2d at 468. We believe the *Mercado* statement is overly broad. We believe that the juvenile court does not lose exclusive original jurisdiction when a juvenile turns eighteen. We believe and hold that the juvenile court maintains jurisdiction, but that such jurisdiction is limited to transferring the case under section 54.02(j) if all criteria are satisfied or to dismissing the case, and does not include the power to adjudicate a juvenile who is eighteen years old or older.

N.J.A. committed the alleged offense when she was sixteen. The State had the rest of her sixteenth year and all of her seventeenth year to bring charges and prosecute her. *See* TEX. FAM. CODE §§ 51.02(2), 54.05(b). But section 54.02(j) creates a situation in which a person who is eighteen years old or older is subject to the juvenile court's power. Section 54.02(j) has five parts, all of which must be satisfied before the juvenile court can waive its exclusive, original jurisdiction

and transfer a person to district court. *See* TEX. FAM. CODE § 54.02(j). Section 54.02(j) does not imply that the juvenile court has jurisdiction to adjudicate a person who is eighteen years old or older. Section 54.02(j) simply allows the juvenile court to waive its exclusive original jurisdiction and transfer a case to district court if the person is eighteen years old or older and certain criteria are met. *See* TEX. FAM. CODE § 54.02(j). If the person is over age eighteen, and section 54.02(j)'s criteria are not satisfied, the juvenile court's only other option is to dismiss the case. *See* TEX. FAM. CODE §§ 51.02(2), 54.05(b).

IV. CONCLUSION

We hold that the juvenile court did have jurisdiction over N.J.A. after she turned eighteen, but that jurisdiction did not include the authority to adjudicate her. Therefore, we reverse the court of appeals' judgment, vacate the juvenile court's adjudication and disposition orders of N.J.A., and remand this case to the juvenile court for further proceedings consistent with this opinion.

James A. Baker, Justice

OPINION DELIVERED: July 1, 1999