

1215-13

No. PD-1215-13
In the
Court of Criminal Appeals
At Austin

ORIGINAL

◆
No. 01-10-00341-CR

In the
Court of Appeals
For the
First District of Texas
At Houston

RECEIVED IN
COURT OF CRIMINAL APPEALS

OCT 04 2013

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No. 1196446
In the 178th District Court
Of Harris County, Texas

FILED IN
COURT OF CRIMINAL APPEALS

OCT 08 2013

Abel Acosta, Clerk

◆
CAMERON MOON
Appellant
V.
THE STATE OF TEXAS
Appellee

◆
STATE'S SUPPLEMENTAL BRIEF ON PETITION FOR DISCRETIONARY
REVIEW
◆

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STATEMENT REGARDING ORAL ARGUMENT

Pursuant to TEX. R. APP. P. 39.7, the State requests oral argument so that any questions this Court may have about these unique and novel issues may be addressed in full.

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TO THE HONORABLE COURT OF CRIMINAL APPEALS OF TEXAS:

The State filed a petition for discretionary review on September 23, 2013, in which three questions for review were presented. The State submits this supplemental brief in order to present a fourth issue for review.

SUPPLEMENTAL QUESTION PRESENTED FOR REVIEW

When reviewing the sufficiency of the evidence to support a juvenile judge's finding on a section 54.02(f) factor, is the appellate court's evaluation of the evidence limited to the evidence cited by the juvenile judge in his written finding or may the appellate court consider the entire record in measuring the sufficiency of the evidence?

Reasons for granting review

This issue for review should be granted so that this Court may resolve an issue that has not been, but should be, resolved by this Court. TEX. R. APP. P. 66.3(b)

Argument

In determining whether to certify a juvenile to stand trial as an adult, a juvenile judge considers four factors, one of which is the juvenile's "sophistication and maturity." TEX. FAM. CODE ANN. § 54.02(f)(2) (West Supp. 2012). In this case, the juvenile judge made a written finding on this factor in which he determined appellant was of sufficient sophistication and maturity to knowingly waive constitutional rights and to aid in the preparation of his defense. (CR 3-4).

On direct appeal, appellant attacked the sufficiency of the evidence to support the judge's finding on this factor. The State responded that the manner in which appellant planned and committed the offense and attempted to conceal his involvement sufficiently demonstrated appellant's sophistication and maturity. However, the court of appeals refused to consider this evidence in measuring the sufficiency of the evidence to support the maturity factor. Rather, the court of appeals limited its sufficiency analysis to a consideration of only the evidence described in the juvenile judge's written finding (i.e., appellant's ability to waive constitutional rights and aid in his defense). Finding no evidence supporting the judge's specific finding on this particular aspect of appellant's maturity, the court of appeals ruled the evidence is insufficient to support the judge's determination regarding the maturity factor. *Moon v. State*, No. 01-10-00341-CR, 2013 WL 3894867, at *6-7 (Tex. App.--Houston [1st Dist.] July 30, 2013, pet filed).

The court of appeals erred by limiting its sufficiency analysis to the type of evidence cited in the trial judge's written finding (i.e., appellant's ability to waive constitutional rights and aid in his defense). In conducting its sufficiency-of-the-evidence analysis, the court of appeals should have considered the entire record of evidence (including the evidence argued by the State – the manner in which appellant planned and committed the offense). Such an approach would be consistent with the well-settled general principle that a reviewing court will sustain

a trial court's decision if it is correct on any theory of law applicable to the case, even if the trial court used the wrong reason for its ruling. *Prystash v. State*, 3 S.W.3d 522, 527 (Tex. Crim. App. 1999). It would also be consistent with another well-settled general proposition: "we review the entire record – all of the record evidence and reasonable inferences therefrom – in assessing evidence sufficiency." *Teer v. State*, 923 S.W.2d 11, 17 (Tex. Crim. App. 1996).

Accordingly, this case should be remanded to the court of appeals with instructions that it consider the entire record in reviewing the sufficiency of the evidence to support the trial court's finding on the maturity factor.

PRAYER FOR RELIEF

It is respectfully requested that this petition be granted, the court of appeals's judgment be reversed, and the cause be remanded to the court of appeals for further consideration.

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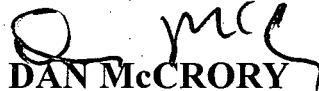
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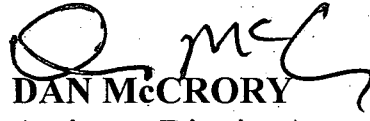
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