

SUPREME COURT OF TEXAS

In the Matter of B.W.

313 S.W.3d 818 (Tex. 2010) · No. No. 08-1044 · Decided June 18, 2010

SUMMARY

This document is a dissenting opinion in a Texas Supreme Court case concerning whether a thirteen-year-old may be adjudicated under the Juvenile Justice Code for prostitution. The dissent argues that the prostitution statute and Juvenile Justice Code authorize such a juvenile proceeding and that the majority improperly inferred a broader incapacity to consent from the statutory-rape provisions. It further maintains that rehabilitation, counseling, and probation were appropriate under the juvenile justice system.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Dale Wainwright; Justice Wainwright; Justice Johnson; Justice Willett
JURISDICTION	Texas
DECIDED	June 18, 2010
DOCKET	No. 08-1044
DISPOSITION	reversed
PROCEDURAL POSTURE	B.W. petitioned for review after the juvenile court adjudicated her delinquent for prostitution and ordered probation, counseling, and treatment; the Court of Appeals for the First District of Texas affirmed. The dissent would affirm the court of appeals, contrary to the majority's disposition.
PRECEDENTIAL VALUE	Published dissenting opinion; nonbinding
PARTIES	B.W. v. State of Texas

TOPICS

- statutory interpretation
- legislative intent
- family law procedure
- family law
- appellate procedure

PRACTICE AREAS

- juvenile law
- family law
- statutory interpretation
- constitutional law

QUESTIONS PRESENTED

1. Whether a thirteen-year-old may be adjudicated delinquent in juvenile court for conduct constituting prostitution under the Texas Penal Code.
2. Whether the absence of a consent defense to statutory rape for children under fourteen renders a thirteen-year-old legally incapable of committing prostitution or bars juvenile adjudication for that conduct.
3. Whether the State violated B.W.'s due process rights by failing to prosecute her alleged adult boyfriend and by failing to offer her immunity in exchange for testimony against him.

HOLDINGS

1. The dissent would hold that a thirteen-year-old may be subject to civil juvenile-delinquency proceedings and rehabilitative treatment for committing conduct that constitutes prostitution under the Penal Code.
2. The dissent would hold that the lack of a consent defense to statutory rape for a child under fourteen does not alter the separate prostitution statute or create an exemption from juvenile adjudication.
3. The dissent would hold that B.W.'s due process rights were not violated because she had no constitutional or statutory right to require prosecution of another person or to receive immunity absent compelled testimony.

KEY QUOTATIONS

“The language of the prostitution statute includes thirteen-year-olds, and the Juvenile Justice Code makes them subject to juvenile delinquency proceedings for committing that offense; and neither the Court nor B.W. point to any language in the Juvenile Justice or Penal Codes that changes the prostitution statute to mean something other than what it says.”

“The text discloses legislative intent, and courts should apply statutory language literally unless enforcing the language of the statute as written would produce absurd results.”

“I would hold that a thirteen-year-old minor may be subject to civil, juvenile delinquency proceedings and rehabilitative treatment for committing an act that constitutes prostitution as proscribed in the Penal Code.”

FACTUAL BACKGROUND

B.W., born in April 1993, had been in Child Protective Services custody and had a history of running away, violence, substance abuse, and other legal violations. After being missing from a group-home placement for more than a year, she was arrested by an undercover officer for offering oral sex for twenty dollars; she initially claimed to be nineteen but was discovered to be thirteen. The juvenile court accepted her plea of true to prostitution, found that rehabilitation was in her best interest and necessary to protect the public, and ordered probation, counseling, and treatment.

PROCEDURAL HISTORY

After authorities discovered that B.W. was thirteen, the State dismissed an adult criminal prostitution case and refiled the matter in juvenile court. B.W. pleaded true, and the juvenile court adjudicated her delinquent and

ordered rehabilitative supervision and treatment. The court of appeals affirmed. The Texas Supreme Court held otherwise, while Justice Wainwright dissented and would have affirmed.

DISPOSITION

reversed

CASES CITED

- Entergy Gulf States, Inc. v. Summers, 282 S.W.3d 433, 437 (Tex. 2009)
- Boykin v. State, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991)
- McIntyre v. Ramirez, 109 S.W.3d 741, 745 (Tex. 2003)
- Hidalgo v. State, 983 S.W.2d 746, 754 (Tex. Crim. App. 1999)
- May v. State, 919 S.W.2d 422, 424 (Tex. Crim. App. 1996)
- Roper v. Simmons, 543 U.S. 551, 616 (2005) (Scalia, J., dissenting)
- Jones v. State, 640 So. 2d 1084, 1089 (Fla. 1994) (Kogan, J., concurring)
- Anschicks v. State, 6 Tex. Ct. App. 524, 535 (Tex. Crim. App. 1879)
- Duby v. State, 735 S.W.2d 555 (Tex. App.—Texarkana 1987, writ ref'd)
- Bolin v. State, 505 S.W.2d 912 (Tex. Crim. App. 1974)
- Schall v. Martin, 467 U.S. 253, 263 (1984)
- Breed v. Jones, 421 U.S. 519, 531 (1975)
- In re Winship, 397 U.S. 358, 366 (1970)
- In re Gault, 387 U.S. 1, 13–14 (1967)
- Patterson v. New York, 432 U.S. 197, 208 (1977)
- In re S.B.C., 805 S.W.2d 1, 6–7 (Tex. App.—Tyler 1991, writ denied)
- Bordenkircher v. Hayes, 434 U.S. 357, 364 (1978)