

COURT OF APPEALS OF TEXAS, FIRST DISTRICT AT HOUSTON

Ex Parte Cameron Michael Moon

No. 01-18-01014-CR (Tex. App.—Houston [1st Dist.] Feb. 20, 2020) · No. No. 01-18-01014-CR · Decided
February 20, 2020

SUMMARY

This concurring opinion addresses whether Cameron Michael Moon could raise an as-applied due-process challenge to Texas Family Code section 54.02(j) in a pretrial habeas appeal. The opinion concurs in the judgment that the claim was not cognizable under existing precedent but argues that pretrial review should be permitted because the challenge concerns the validity of transferring Moon, who committed the alleged offense as a juvenile, to adult criminal court.

CASE DETAILS

COURT	Court of Appeals of Texas, First District at Houston
WRITING FOR THE COURT	Gordon Goodman; Justice Lloyd; Justice Goodman; Justice Hightower
JURISDICTION	Texas
DECIDED	February 20, 2020
DOCKET	No. 01-18-01014-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the denial of a pretrial application for a writ of habeas corpus challenging the constitutionality of a juvenile-court transfer under Texas Family Code section 54.02(j).
STANDARD OF REVIEW	De novo review applies to the legal question whether a pretrial habeas claim is cognizable and to constitutional challenges; the concurrence discusses the standards governing pretrial as-applied constitutional challenges.
PRECEDENTIAL VALUE	Published concurring opinion; the concurrence's proposed expansion of pretrial as-applied habeas review is not itself the majority holding.
PARTIES	Cameron Michael Moon

TOPICS

[habeas corpus](#)[due process](#)[appellate procedure](#)[constitutional law](#)[statutory interpretation](#)

PRACTICE AREAS

criminal procedure

juvenile justice

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Moon's facial constitutional challenge to Texas Family Code section 54.02(j) failed because he could not show that the statute was unconstitutional as to every person subject to it.
2. Whether Moon could raise an as-applied due-process challenge to his transfer under section 54.02(j) in a pretrial habeas proceeding.
3. Whether existing Texas precedent should be reconsidered because requiring Moon to wait until after trial to challenge the transfer would effectively undermine the asserted right to avoid adult prosecution absent compliance with section 54.02(a).

HOLDINGS

1. The facial constitutional challenge fails because Moon cannot establish that section 54.02(j) is unconstitutional as applied to all persons subject to the statute.
2. Under existing Texas precedent, a defendant generally may not litigate an as-applied constitutional challenge to a statute before trial, although recognized exceptions include double-jeopardy and bail claims.
3. The concurrence would hold that Moon should be permitted to bring his as-applied due-process challenge before trial because delaying review until after trial would effectively undermine the right he claims was violated.

KEY QUOTATIONS

“Requiring Moon to wait until after trial to challenge his transfer to the criminal district court under 54.02(j) effectively undermines the very right underlying his challenge—the right not be tried in the criminal district court absent compliance with the transfer requirements of section 54.02(a).” (at 5-6)

“Requiring Moon to be tried as an adult in the criminal district court before we consider whether he is subject to trial there, as we must, makes no sense and serves no purpose.” (at 6)

FACTUAL BACKGROUND

Moon was sixteen when the juvenile court initially waived jurisdiction and transferred him to adult criminal court for a murder prosecution under Texas Family Code section 54.02(a). After that transfer was held erroneous and his conviction was vacated, the juvenile court transferred him a second time in 2015 under section 54.02(j), by then relying on the fact that Moon had turned eighteen. Moon contended that the second transfer denied him the procedural protections required by section 54.02(a), which he could no longer receive because of his age.

PROCEDURAL HISTORY

In 2008, the juvenile court transferred Moon, then sixteen, to adult criminal court under Texas Family Code section 54.02(a), and he was convicted of murder. The conviction was vacated after the appellate courts held that

the transfer was erroneous. In 2015, after Moon had turned eighteen, the juvenile court again transferred him under section 54.02(j). The district court denied Moon's pretrial habeas application, and Moon brought this interlocutory appeal.

DISPOSITION

affirmed

CASES CITED

- Moon v. State, 410 S.W.3d 366 (Tex. App.—Houston [1st Dist.] 2013), aff'd, 451 S.W.3d 28 (Tex. Crim. App. 2014)
- 451 S.W.3d 28 (Tex. Crim. App. 2014)
- In re J.G., 495 S.W.3d 354, 367-69 (Tex. App.—Houston [1st Dist.] 2016, pet. denied)
- Ex parte Perry, 483 S.W.3d 884, 888, 895-96, 918, 920 (Tex. Crim. App. 2016)
- Moore v. State, 532 S.W.3d 400, 404-05 (Tex. Crim. App. 2017) (per curiam)