

Affirmed and Opinion filed September 28, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00030-CV

IN THE MATTER OF D. M. J.

**On Appeal from the County Court at Law No. 2, Sitting as a Juvenile Court
Fort Bend County, Texas
Trial Court Cause No. 6032**

OPINION

This is an appeal by a juvenile from an adjudication of delinquency. Appellant raises two points of error alleging the adjudication must be reversed because he was not served with a summons and/or original petition at or prior to the adjudication hearing in violation of sections 53.06-53.07 of the Texas Family Code and article I, section 19 of the Texas Constitution. We affirm.

Appellant was arrested in October of 1997 for suspicion of aggravated robbery in connection with an August 24, 1997, car jacking. On October 22, 1997, appellant was charged by original petition with the offense of aggravated robbery. On January 28, 1998, appellant pled true to a reduced charge of robbery and was adjudged to have engaged in delinquent conduct. Appellant was given probation and "in-home" boot camp.

On October 27, 1998, the State filed a motion to revoke appellant's probation. On November 12, 1998, the juvenile court found appellant had violated conditions of his probation. Accordingly, the juvenile court revoked appellant's probation and sentenced him to confinement at the Texas Youth Commission.

As stated above, appellant alleges in his two points of error that he was not personally served with a summons and the original petition before his adjudication on January 28, 1998. Appellant argues that because he was not personally served with a summons and a copy of the petition, all actions taken by the juvenile court were void because the juvenile court never acquired jurisdiction.

Texas law specifically provides that a juvenile court direct the issuance of a summons to the child. *See* TEX. TEX. FAM. CODE ANN. CODE ANN. § 53.06(a)(1) (Vernon 1996). Under Texas case law, notice is mandatory and the failure to comply with the notice provisions outlined under the Texas Family Code deprives the juvenile court of jurisdiction. *See Alaniz v. State*, 2 S.W.3d 451, 451 (Tex. App.–San Antonio 1999, no pet.) (citing *In the Matter of D.W.M.*, 562 S.W.2d 851, 852 (Tex. 1978)); *In the Matter of A.B.*, 938 S.W.2d 537, 538 (Tex. App.–Texarkana 1997, writ denied). Thus, we agree that if the State failed to serve appellant with a summons and a copy of the petition, the juvenile court would not acquire jurisdiction.

In this case, however, a supplemental clerk's record, filed approximately one month after appellant's brief was filed, affirmatively establishes that appellant was served with a summons and a copy of the petition. On page four of the supplemental clerk's record appears a document containing an "Officer or Authorized Person's Return." That return specifically states that appellant was served, in person, with a summons and a copy of the original petition on December 30, 1997, at 2:00 p.m. by Fort Bend County Deputy Constable Angela Anders.

Because the record affirmatively establishes service of a summons and a copy of the original petition upon appellant, the juvenile court acquired jurisdiction. Accordingly, we overrule points of error one and two and affirm the trial court's judgment.

PER CURIAM

Judgment rendered and Opinion filed September 28, 2000.

Panel consists of Justices Amidei, Anderson, and Frost.

Do Not Publish — TEX. R. APP. P. 47.3(b).