

IN THE MATTER OF

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§  
§

IN THE COUNTY COURT  
AT LAW NO. 1  
DENTON COUNTY, TEXAS

\_\_\_\_\_  
RESPONDENT

**DISCRETIONARY TRANSFER**

**I. EXPLANATION OF RIGHTS**

On the date set forth below, prior to the taking of any testimony, the following explanations of the rights of the Respondent and other information was given to the Respondent.

1. The right to be represented by an attorney and to have an attorney appointed in the event of indigency.
2. The right to have the Court conduct a hearing without a jury to consider transfer to the appropriate district court for criminal proceedings.
3. The right to have the petition and notice requirements of Family Code Sections 53.04 Court Petition, 53.05 Time Set for Hearing, and 53.07 Service of Summons met.
4. The right to have the attorney for the child to be given access to all written matter to be considered by the court in making the transfer decision at least five days prior to the transfer hearing.
5. The right to know the allegations made against Respondent.
6. Respondent’s attorney has the right to have 10 days to prepare for a transfer hearing.
7. The right to confront the State’s witnesses and the right to compel the presence of witnesses on Respondent’s behalf.
8. The privilege against self-incrimination and the right to NOT be a witness against oneself or to otherwise incriminate oneself.
9. The right to know the nature (for example, a “pre-18” discretionary transfer hearing; a “post-18” discretionary transfer hearing; or a mandatory transfer hearing) and possible consequences of the proceeding.
10. If the Respondent is not a U.S. citizen, he/she may have the privilege of talking to the consular general’s office of the country he/she is a citizen of, pursuant to the Vienna Convention, and may be subject to certain immigration consequences.

**I UNDERSTAND THE ABOVE EXPLANATIONS AND MY RIGHTS**

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Parent/Guardian/Custodian

\_\_\_\_\_  
Parent/Guardian/Custodian

**II. WAIVER OF RIGHTS**

A. **Respondent:** My attorney and the Judge of the Juvenile Court have explained the foregoing information and rights. I hereby voluntarily, intelligently, and knowingly exercise or waive and give up these rights:

- |       |        |   |
|-------|--------|---|
| WAIVE | DO NOT |   |
|       | WAIVE  |   |
| ( )   | ( )    | My right against self-incrimination.  |
| ( )   | ( )    | My right to confront the State's witnesses and to bring witnesses on my own behalf.   |
| ( )   | ( )    | My right to have the petition and notice requirements of Family Code Sections 53.04 Court Petition, 53.05 Time Set for Hearing, 53.06 Summons, and 53.07 Service of Summons met. See FC 54.02(b). |
| ( )   | ( )    | My right to a contested hearing for discretionary transfer.   |

\_\_\_\_\_  
Respondent /Child

B. **Parent(s)/Guardian(s)/Custodian(s):** I am the Respondent's parent, guardian or custodian and approve of him/her waiving or exercising (as applicable) all rights as set forth above. I further hereby enter my appearance for all purposes, including the assessment of fees, costs, and restitution, if appropriate.

\_\_\_\_\_  
Parent/Guardian/Custodian

\_\_\_\_\_  
Parent/Guardian/Custodian

C. **Attorney for Respondent:**

- ( ) I am satisfied that the Respondent understands the explanations given by the Judge of the Juvenile Court. As the Respondent's attorney, I join him/her in the waiver or exercise of the rights as set forth above.
- ( ) If applicable, I do hereby waive my entitlement to the 10 days to prepare for this hearing.

D. **Judge:** The waivers, if any, as set forth above, are accepted by the Court. The Court finds that any rights waived above were knowingly, intelligently, and voluntarily waived by the Respondent and joined by his/her attorney.

SIGNED ON \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding, Denton County Court at Law Number One, Sitting as a Juvenile Court

### III. FORM AND CONTENTS OF PETITION FOR DISCRETIONARY TRANSFER AND SUMMONS

I have no objection to and/or waive any defect in the form of the Petition for Discretionary Transfer, and I have no objection to and/or waive any defect in the form and contents of the Discretionary Transfer Summons. I have been properly served with said Petition and Summons.

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Respondent

Attorney for Respondent

### IV. RIGHT TO APPEAL, Language taken from §56.01 Texas Family Code.

The following explanation of the right to appeal is being provided in writing to the Respondent and his/her family by the Presiding Judge, Denton County Court at Law Number One, Sitting as a Juvenile Court. All code sections cited below refer to the Texas Family Code.

- A. An appeal may be taken:
- (1) except as provided by Section G, by or on behalf of a child from an order entered under:
    - (A) Section 54.02 respecting transfer of the child for prosecution as an adult. This appeal may be made immediately and is accelerated under the Texas Rules of Appellate Procedure applicable to accelerated appeals;
    - (B) Section 54.03 with regard to delinquent conduct or conduct indicating a need for supervision;
    - (C) Section 54.04 disposing of the case;
    - (D) Section 54.05 respecting modification of a previous juvenile court disposition; or
    - (E) Chapter 55 by a juvenile court committing a child to a facility for the mentally ill or intellectually disabled; or
  - (2) by a person from an order entered under Section 54.11(i)(2) transferring the person to the custody of the Texas Department of Criminal Justice in Determinate Sentence cases.
- B. A child has the right to:
- (1) appeal, as provided by this subchapter;
  - (2) representation by counsel on appeal; and
  - (3) appointment of an attorney for the appeal if an attorney cannot be obtained because of indigency.
- C. If the child and his parent, guardian, or guardian ad Litem express a desire to appeal, the attorney who represented the child before the juvenile court shall file a notice of appeal with the juvenile court and inform the court whether that attorney will handle the appeal. Counsel shall be appointed under the standards provided in Section 51.10 unless the right to appeal is waived in accordance with Section 51.09.
- D. An appeal does not suspend the order of the juvenile court, nor does it release the child from the custody of that court or of the person, institution, or agency to whose care the child is committed, unless the juvenile court so orders. However, the appellate court may provide for a personal bond. An appeal from an order entered under Section 54.02 respecting transfer of the child for prosecution as an adult does not stay the criminal proceedings pending the disposition of that appeal.
- E. The court may order the child, the child's parent, or other person responsible for support of the child to pay the child's costs of appeal, including the costs of representation by an attorney, unless the court determines the person to be ordered to pay the costs is indigent.
- F. For purposes of determining indigency of the child under this section, the court shall consider the assets and

income of the child, the child's parent, and any other person responsible for the support of the child.

G. A child who enters a plea or agrees to a stipulation of evidence in a proceeding held under this title may not appeal an order of the juvenile court entered under Section 54.03, 54.04, or 54.05 if the court makes a disposition in accordance with the agreement between the state and the child regarding the disposition of the case, unless:

- (1) the court gives the child permission to appeal; or
- (2) the appeal is based on a matter raised by written motion filed before the proceeding in which the child entered the plea or agreed to the stipulation of evidence.

H. If the Order appealed from takes custody of the child from the child's parent, guardian, or custodian or waives jurisdiction under 54.02 and transfers the child to criminal court for prosecution, the appeal takes precedence over all other cases.

**I HAVE READ AND UNDERSTAND THE ABOVE RIGHT TO APPEAL**

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Parent/Guardian/Custodian

\_\_\_\_\_  
Parent/Guardian/Custodian

The above notice of Right to Appeal and a copy of the Supreme Court of Texas' Misc. Docket No. 15-9156 , Order Accelerating Juvenile Certification Appeals and Requiring Juvenile Courts to Give Notice of the Right to an Immediate Appeal, were given to Respondent and his/her family at the conclusion of the transfer hearing.

Signed on \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding, Denton County Court at Law Number One, Sitting as a Juvenile Court

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 15-9156

## ORDER ACCELERATING JUVENILE CERTIFICATION APPEALS AND REQUIRING JUVENILE COURTS TO GIVE NOTICE OF THE RIGHT TO AN IMMEDIATE APPEAL

**ORDERED** that:

During the 2015 legislative session, the Legislature passed S.B. 888, which amends Family Code section 56.01 to permit an immediate appeal from the decision of a juvenile court under section 54.02 waiving its exclusive jurisdiction and certifying the juvenile to stand trial as an adult. *See* Acts 2015, 84th Leg., R.S., ch. 74 (S.B. 888). The Act also requires this Court to “adopt rules accelerating the disposition by the appellate court and the supreme court of an appeal of an order waiving jurisdiction under Section 54.02 and transferring the child to criminal court for prosecution.” *Id.* § 3, sec. 56.01(h-1) (codified at TEX. FAM. CODE § 56.01(h-1)). The Act takes effect on September 1, 2015.

Pending the adoption of rules, the following procedures govern in actions under the Juvenile Justice Code, Title 3 of the Family Code, effective September 1, 2015:

1. The appeal of an order under Family Code section 54.02 certifying a juvenile to stand trial as an adult is governed by the Texas Rules of Appellate Procedure applicable to accelerated appeals.
2. When a juvenile court certifies a juvenile to stand trial as an adult, the court must inform the juvenile and the juvenile’s attorney, orally on the record in open court and in writing in the certification order:
  - a. that the juvenile may immediately appeal the certification decision under Family Code section 56.01; and
  - b. that, by order of this Court, the appeal is accelerated under the Texas Rules of Appellate Procedure applicable to accelerated appeals.

3. Appellate courts should, so far as reasonably possible, ensure that certification appeals are brought to final disposition in conformity with the following time standards:
  - a. *Courts of Appeals*. Within 180 days of the date the notice of appeal is filed.
  - b. *Supreme Court*. Within 180 days of the date the petition for review is filed.

The Clerk is directed to:

1. file a copy of this order with the Secretary of State;
2. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
3. send a copy of this order to each elected member of the Legislature; and
4. submit a copy of the order for publication in the *Texas Register*.

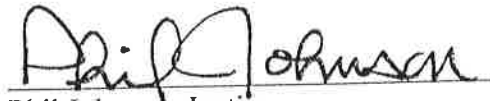
Dated: August 28, 2015.



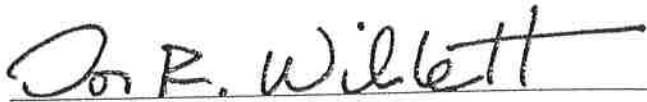
Nathan L. Hecht, Chief Justice



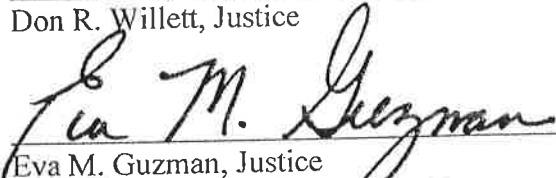
Paul W. Green, Justice



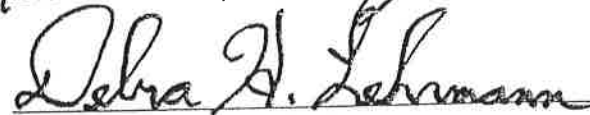
Phil Johnson, Justice



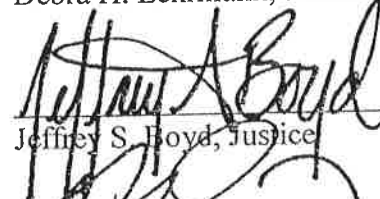
Don R. Willett, Justice



Eva M. Guzman, Justice



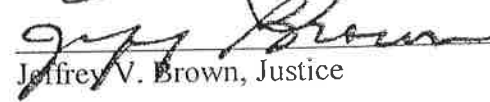
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice