

COPY

CAUSE NUMBERS: 1450917, 1450918, 1450920, 1450921

THE STATE OF TEXAS                    \            IN THE CRIMINAL DISTRICT  
   \             
VS.    \            COURT NUMBER TWO OF  
   \             
ETHAN COUCH<sup>1</sup>                            \            TARRANT COUNTY, TEXAS

FILED  
TARRANT COUNTY  
2016 AUG 30 PM 4:46  
THOMAS A. WILDER  
DISTRICT CLERK

**PROBATIONER’S PLEA TO THE JURISDICTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Probationer,<sup>2</sup> *Ethan Couch*, in the above styled and numbered causes,<sup>3</sup> by and through his attorneys of record, SCOTT BROWN and WM. REAGAN WYNN, and files this his Plea to the Jurisdiction and, in support thereof, would show the following:

<sup>1</sup> Probationer respectfully submits this matter should be styled *In the Matter of Ethan Couch* rather than *The State of Texas v. Ethan Couch* because, as set out in detail below, this is a civil juvenile proceeding governed by the Texas Family Code rather than a criminal prosecution. However, to avoid confusion, this pleading is styled in accordance with the style of documents contained in the District Clerk’s file.

<sup>2</sup> Probationer respectfully submits, since this is a civil proceeding arising from a juvenile delinquency adjudication as set out below, he should be referred to a Probationer/Respondent or simply Respondent. However, to avoid confusion, he will be referred to as “Probationer” in this pleading.

<sup>3</sup> At the hearing conducted by this Court on April 13, 2016, Probationer objected to this matter being handled as four separate cases on the grounds there is only one juvenile adjudication that has been transferred to an appropriate district court for supervision. There are not four properly pending cases before this Court. The State instituted this matter by filing a single Petition Regarding Child Engaged in Delinquent Conduct under a single cause number. Probationer was adjudicated delinquent based upon the juvenile court finding that the allegations in that single Petition were true. The juvenile court entered a single Judgment under that single cause number and imposed a single disposition in a single Order of Probation filed under the same single cause number. Simply put, there is no provision in either the Code of Criminal Procedure or the Family Code that allows the State, the District Clerk, or any court to convert this single juvenile adjudication of delinquency into four adult felony “cases.” Probationer continues to object to there being four separate cases, but is filing this Plea to the Jurisdiction under all four cause numbers so as to insure that this Court examine its subject matter jurisdiction in all four “cases.”

## I. Introduction

The above-styled and numbered causes are pending in this Court solely on the basis of a juvenile adjudication of delinquency that resulted in disposition of probation with supervision of Probationer having been transferred to an “appropriate adult district court” by the Juvenile Court.

This Court is a “criminal district court,” not a “district court,” and its jurisdiction is limited to criminal matters. As with all juvenile matters, this matter is a civil action, not a criminal case. Therefore, this Court has no subject matter jurisdiction in any of the above-styled and numbered causes. No party may consent to subject matter jurisdiction and lack of subject matter jurisdiction may be raised at any time. Further, this Court is independently required to *sua sponte* ascertain that subject matter jurisdiction exists before acting, regardless of whether the parties question it. Accordingly, all orders, judgments, conditions of probation, and/or other decrees entered or imposed by this Court are void – a total nullity – and must be immediately rescinded.

## II. Procedural Background

On September 11, 2013, a Petition was filed in the 323<sup>rd</sup> District Court alleging the then-Juvenile aged Probationer (Date of Birth: 04-11-97) had Engaged in Delinquent Conduct.[Petition attached as Exhibit 1] The cause number was 323-99049-J. In pertinent part, the Petition alleged the offense of Intoxication Manslaughter in Four separate Paragraphs arising from a single motor vehicle accident. Each paragraph alleged a separate injured party but all paragraphs alleged the same offense date.

The Petition in Cause Number 323-99049-J was approved by the Grand Jury of

Tarrant County for determinate sentencing pursuant to section 53.045, Texas Family Code, which approval was duly certified to the Juvenile Court and was entered in the record of the juvenile cause on September 13, 2013.[Grand Jury Approval of Juvenile Court Petition Pursuant to Texas Family Code Section 53.045 (Determinate Sentencing) Attached as Exhibit 2].

On the 4<sup>th</sup> day of December, 2013, Probationer was found to have engaged in delinquent conduct, in Cause Number 323-99049-J, namely Four Paragraphs of Intoxication Manslaughter, each of which was committed on the 15<sup>th</sup> day of June, 2013 [Judgment for Determinate and Indeterminate Sentencing Without Jury Trial attached as Exhibit 3]. The juvenile judge entered an affirmative finding that a deadly weapon was used in the commission of the offenses alleged in each paragraph.

On the 10<sup>th</sup> day of December, 2013, a disposition hearing was held in the juvenile court and Probationer was sentenced, in Cause Number 323-99049-J, to Ten years' confinement in the Texas Juvenile Justice Department with a possible transfer to the Texas Department of Criminal Justice. However, this sentence was probated for a period of Ten years in accordance with Sections 53.045 and 54.04(q) of the Texas Family Code.<sup>4</sup>

On April 5, 2016, pursuant to Section 54.051(d) of the Texas Family code, the 323<sup>rd</sup> District Court transferred the "probation supervision" of Probationer to "an

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<sup>4</sup> The Order of Probation for Determinate Sentencing Under 53.045 entered by the juvenile court is subject to this Court's Order granting Probationer's Motion to Seal Non-Public Contents of District Clerk's File entered April 13, 2016. Therefore, the Order of Probation is not attached as an exhibit to this pleading, but is available in the District Clerk's file for this Court's review.

appropriate adult District Court of Tarrant County Texas.”[Amended Order Transferring the Probation to an Appropriate Adult District Court attached as Exhibit 4]. Such transfer was ordered to take effect on the 11<sup>th</sup> day of April, 2016 (Probationer’s 19<sup>th</sup> birthday).

On April 6, 2016, the Tarrant County District Attorney filed four cases of Intoxication Manslaughter against Probationer. The Cause Numbers for these cases are 1450917, 1450918, 1450920, and 1450921. On April 13, 2016, this Court, Criminal District Court Number Two of Tarrant County, conducted a hearing and formally accepted the Probationer and his probated sentence. Over Probationer’s oral and written objections, this Court imposed a probation condition of 180 days confinement in the Tarrant County Jail in each of the cause numbers filed by the Tarrant County District Attorney. This Court ordered that the 180 day periods of confinement run consecutive to each other, amounting to a condition of community supervision of a total of two years’ confinement in the Tarrant County Jail.

### **III. Subject Matter Jurisdiction**

Jurisdiction of the subject matter cannot be conferred by agreement of the parties; this type of jurisdiction exists by reason of the authority vested in a court by the Constitution or a statute. *Garcia v. Dial*, 596 S.W.2d 524, 527 (Tex. Crim. App.1980); *Ex parte Caldwell*, 383 S.W.2d 587, 589 (Tex. Crim. App.1964). Any order or judgment entered by a court lacking subject matter jurisdiction is void and “a void judgment is a ‘nullity’ and can be attacked at any time. *Nix v. State*, 65 S.W.3d 664, 667-68 (Tex. Crim. App. 2001). As early as 1928, the Court of Criminal Appeals defined “jurisdiction” as:

the right to adjudicate concerning the subject matter in a given case. (Citation omitted) Unless the power or authority of a court to perform a contemplated act can be found in the Constitution or laws enacted thereunder, it is without jurisdiction and its acts without validity.

*Ex parte Armstrong*, 110 Tex. Cr. R. 362, 8 S.W.2d 674, 675-676 (1928).

The concept of subject matter jurisdiction is so fundamental that it cannot be ignored and a court must *sua sponte* address the issue. *State v. Roberts*, 940 S.W.2d 655, 657 (Tex. Crim. App. 1996), *overruled on other grounds*, *State v. Medrano*, 67 S.W.3d 892, 903 (Tex. Crim. App. 2002). Subject matter jurisdiction may be raised for the first time on appeal; it may not be waived by the parties. *Texas Employment Comm'n v. International Union of Elec., Radio and Mach. Workers, Local Union No. 782*, 163 Tex. 135, 352 S.W.2d 252, 253 (1961); RESTATEMENT (SECOND) OF JUDGMENTS § 11, comment c (1982). *See also Gorman v. Life Insurance Co.*, 811 S.W.2d 542, 547 (Tex.), *cert. denied*, 502 U.S. 824 (1991). In fact, “a court is *obliged to ascertain that subject matter jurisdiction exists regardless of whether the parties question it.*” *Univ. of Tex. Sw. Med. Ctr. v. Loutzenhiser*, 140 S.W.3d 351, 358 (Tex. 2004) (emphasis added), *superseded by statute on other grounds*, TEX. GOV'T CODE § 311.034 (West 2016). *See also City of Allen v. Pub. Util. Comm'n of Texas*, 161 S.W.3d 195, 199 (Tex. App. – Austin 2005, no pet.) (the question of subject matter jurisdiction can be raised at any time in the trial court or on appeal).

#### IV. Jurisdiction Over the Person

For jurisdiction over the person, a different concept than subject matter jurisdiction, it is well settled that a valid indictment, or information if indictment is

waived, is essential to the district court's jurisdiction in a criminal case. *North v. State*, 598 S.W.2d 634 (Tex. Crim. App. 1979); *Lackey v. State*, 574 S.W.2d 97 (Tex. Crim. App.1978); *Menefee v. State*, 561 S.W.2d 822 (Tex. Crim. App.1978); *American Plant Food Corp. v. State*, 508 S.W.2d 598 (Tex. Crim. App.1974); *Bruce v. State*, 419 S.W.2d 646 (Tex. Crim. App.1967); *see also Lott v. State*, 18 Tex.App. 627 (1885). Criminal jurisdiction over the person cannot be conferred upon a district court solely by the accused's appearance, but requires the due return of a felony indictment, or the accused's personal affirmative waiver thereof and the return of a valid felony information upon complaint. *Lackey v. State*, *supra*; *Ex parte Sandoval*, 167 Tex. Cr. R. 54, 318 S.W.2d 64 (1958).

The Petition alleging that Probationer engaged in delinquent conduct, attached as Exhibit 1, is the only "charging instrument" present in each of Probationer's cases. There is no felony indictment or information present in the Clerk's file for any of the four cases filed against Probationer by the District Attorney's Office.

#### **V. Constitutional Court vs. Statutory Court**

Whether a trial court has subject-matter jurisdiction is a question of law. *Tex. Natural Res. Conservation Comm'n v. IT-Davy*, 74 S.W.3d 849, 855 (Tex. 2002). The Texas Constitution and state statutes provide the sole sources of jurisdiction for Texas courts. *Chenault v. Phillips*, 914 S.W.2d 140, 141 (Tex. 1996). Under the Texas Constitution, the judicial power of the State is "vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as

may be provided by law.” TEX. CONST. art. V, § 1. The Texas Constitution also authorizes the Texas Legislature to “establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and [to] conform the jurisdiction of the district and other inferior courts thereto.” *Id.*

Texas courts that are enumerated in the constitution are referred to as “constitutional courts,” while courts that are established pursuant to the legislature’s power to create “other courts” are referred to as “legislative” or “statutory” courts. 1 ROY W. McDONALD & ELAINE A. GRAFTON CARLSON, TEXAS CIVIL PRACTICE § 3:3 (2d ed. 2004); *see also* TEX. GOV’T CODE §§ 21.009(1), (2) (West 2016).

The jurisdiction of District Courts is proscribed by Article V, §8 of the Texas Constitution. That section provides:

District Court jurisdiction consists of exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, except in cases where exclusive, appellate, or original jurisdiction may be conferred by this Constitution or other law on some other court, tribunal, or administrative body. District Court judges shall have the power to issue writs necessary to enforce their jurisdiction.

The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law.

TEX. CONST. art. V, § 8.

Furthermore, the Government Code provides, in relevant part: “The district court has the jurisdiction provided by Article V, Section 8, of the Texas Constitution.” TEX. GOV’T. CODE § 24.007 (West 2016).

A Texas Criminal District Court, such as Criminal District Court Number Two, is a Statutory Court, being created by the Texas legislature (in Subchapter E of the Texas Government Code entitled “Criminal District Courts”) and not by the Texas Constitution. In creating this Court, the Texas Legislature specified its jurisdiction by reference to the statute creating Criminal District Court Number 1 of Tarrant County:

- (a) The Tarrant County Criminal Judicial District No. 2 is composed of Tarrant County.
- (b) Section 24.910, relating to the Tarrant County Criminal District Court No. 1, contains provisions applicable to both that court and the Tarrant County Criminal District Court No. 2.

TEX. GOV'T. CODE § 24.911 (West 2016). Section 24.910 provides:

- (a) The Tarrant County Criminal Judicial District No. 1 is composed of Tarrant County.
- (b) This section applies to the Tarrant County Criminal District Courts Nos. 1, 2, and 3.
- (c) The criminal district courts have jurisdiction of criminal cases within the jurisdiction of a district court. The criminal district courts also have concurrent original jurisdiction with the county criminal courts over misdemeanor cases. The criminal district courts do not have appellate misdemeanor jurisdiction.

....

TEX. GOV'T CODE § 24.910 (West 2016).

This language can be contrasted to the language the Texas legislature used when it created Criminal District Court Number Four. In that instance, the legislature provided, in relevant part:

- (a) The Criminal Judicial District No. 4 of Tarrant County is composed of Tarrant County.
- (b) The court shall give preference to criminal cases.



TEX. GOV'T CODE § 24.913 (West 2016) (emphasis added).

Chapter 24, Subchapter C of the Texas Government Code is known as the Judicial Districts Act of 1969. This section creates many “Special District Courts.” Each court created in Subchapter C “[that] is directed to give preference to specific matters or types of cases shall participate in all matters relating to juries, grand juries, indictments, and docketing of cases in the same manner as the existing district courts that are similarly directed within that county.” TEX. GOV'T CODE § 24.310 (West 2016). The legislature used the language “the court shall give preference to criminal cases” when it created the following Tarrant County Judicial District Courts: the 297<sup>th</sup>,<sup>5</sup> the 371<sup>st</sup>,<sup>6</sup> the 372<sup>nd</sup>,<sup>7</sup> the 396<sup>th</sup>,<sup>8</sup> and the 432<sup>nd</sup>.<sup>9</sup>

With regard to the jurisdiction of the 213<sup>th</sup> Judicial District Court, the Texas legislature provided the following:

(a) The 213th Judicial District is composed of Tarrant County.

(b) In addition to other jurisdiction provided by law, the 213th District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

TEX. GOV'T CODE § 24.392 (West 2016).

Comparing the language used by the Texas legislature in creating the aforementioned courts, it is obvious that Criminal District Courts 1, 2, and 3 have subject

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<sup>5</sup> TEX. GOV'T. CODE § 24.474 (West 2016).

<sup>6</sup> TEX. GOV'T. CODE § 24.516 (West 2016).

<sup>7</sup> TEX. GOV'T. CODE § 24.517 (West 2016).

<sup>8</sup> TEX. GOV'T. CODE § 24.541 (West 2016).

<sup>9</sup> TEX. GOV'T. CODE § 24.576 (West 2016).

matter jurisdiction over only criminal cases whereas Criminal District Court Number 4 and the Judicial District Courts (the 213<sup>th</sup>, the 297<sup>th</sup>, the 371<sup>st</sup>, the 372<sup>nd</sup>, the 396<sup>th</sup>, and the 432<sup>nd</sup>) have both criminal and civil subject matter jurisdiction.

The inquiry does not end there. The language used by the Texas legislature in Chapter 24 of the Government Code makes it clear that several other Judicial District Courts in Tarrant County that have traditionally handled only civil cases actually have jurisdiction over criminal cases as well. The statutes creating these courts provide that they are to “give preference to civil matters.” *See* TEX. GOV’T. CODE § 24.118 (West 2016) (establishing the jurisdiction of the following Judicial District Courts: the 17<sup>th</sup>, the 48<sup>th</sup>, the 67<sup>th</sup>, and the 153<sup>rd</sup>); TEX. GOV’T. CODE § 24.150 (West 2016) (further clarifying the jurisdiction of the 48<sup>th</sup> Judicial District Court); TEX. GOV’T. CODE § 24.169 (West 2016) (further clarifying the jurisdiction of the 67<sup>th</sup> Judicial District Court); TEX. GOV’T. CODE § 24.352 (West 2016) (establishing the jurisdiction of the 141<sup>st</sup> Judicial District Court); TEX. GOV’T. CODE § 24.252 (West 2016) (further clarifying the jurisdiction of the 153<sup>rd</sup> Judicial District Court); TEX. GOV’T. CODE § 24.413 (West 2016) (establishing the jurisdiction of the 236<sup>th</sup> Judicial District Court); TEX. GOV’T. CODE § 24.488 (West 2016) (establishing the jurisdiction of the 342<sup>nd</sup> Judicial Court); TEX. GOV’T. CODE § 24.494 (West 2016) (establishing the jurisdiction of the 348<sup>th</sup> Judicial District Court); TEX. GOV’T. CODE § 24.498 (West 2016) (establishing the jurisdiction of the 352<sup>nd</sup> Judicial District Court).

Additionally, the Texas legislature has provided that two Tarrant County Courts “shall give preference to family law matters.” *See* TEX. GOV’T. CODE § 24.408 (West

2016) (the 231<sup>st</sup> Judicial District Court); TEX. GOV'T. CODE § 24.410 (West 2016) (the 233<sup>rd</sup> Judicial District Court).

Several Tarrant County Courts, designated as “Family District Courts” by Chapter 24, Subsection D of the Texas Government Code, have the following subject matter jurisdiction:

(a) A family district court has the jurisdiction and power provided for district courts by the constitution and laws of this state. Its jurisdiction is concurrent with that of other district courts in the county in which it is located.

(b) A family district court has primary responsibility for cases involving family law matters. These matters include:

- (1) adoptions;
- (2) birth records;
- (3) divorce and marriage annulment;
- (4) child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency;
- (5) parent and child; and
- (6) husband and wife.

(c) This subchapter does not limit the jurisdiction of other district courts nor relieve them of responsibility for handling cases involving family law matters.

TEX. GOV'T CODE § 24.601 (West 2016). The Legislature has established five such “Family District Courts” in Tarrant County. *See* Tex. Gov't. Code § 24.630 (West 2016) (the 322<sup>nd</sup> Judicial District Court); TEX. GOV'T. CODE § 24.631 (West 2016) (the 323<sup>rd</sup> Judicial District Court); TEX. GOV'T. CODE § 24.632 (West 2016) (the 324<sup>th</sup> Judicial District Court); TEX. GOV'T. CODE § 24.633 (West 2016) (the 325<sup>th</sup> Judicial District Court); and Tex. Gov't. Code § 24.639 (West 2016) (the 360<sup>th</sup> Judicial District Court).

By authority of Section 51.04(b), Texas Family Code, the Tarrant County Juvenile Board has designated the 323<sup>rd</sup> Judicial District Court as the sole juvenile court for this County.

## **VI. Jurisdiction Transferred from Juvenile Court to Appropriate “District Court”**

There are two ways in which a court with juvenile jurisdiction (hereinafter “Juvenile Court”) can transfer jurisdiction to another District Court. The first occurs when the Juvenile Court waives jurisdiction and transfers the juvenile case to an adult court (commonly known as “certification” as an adult). The procedure necessary for this type of transfer of jurisdiction is found in section 54.02, Texas Family Code. That section provides, in pertinent part: “[T]he juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court **or criminal district court for criminal proceedings** if:...” TEX. FAM. CODE § 54.02(a) (West 2016) (emphasis added). This type of transfer occurs prior to an adjudication of delinquency by the Juvenile Court.

The second way in which a juvenile can be transferred by the Juvenile Court to another District Court (and the one applicable in the instant case) occurs after the juvenile has been adjudicated delinquent and sentenced to a term of “determinate sentence probation.” The procedures for this type of transfer are found in section 54.051, Texas Family Code. That section provides, in pertinent part:

- (a) On motion of the state concerning a child who is placed on probation under Section 54.04(q) for a period, including any extension ordered under Section 54.05, that will continue after the child’s 19th birthday,

the juvenile court shall hold a hearing to determine whether to transfer the child to an appropriate district court or discharge the child from the sentence of probation.

(b) The hearing must be conducted before the person's 19th birthday, or before the person's 18th birthday if the offense for which the person was placed on probation occurred before September 1, 2011, and must be conducted in the same manner as a hearing to modify disposition under Section 54.05.

(c) If, after a hearing, the court determines to discharge the child, the court shall specify a date on or before the child's 19th birthday to discharge the child from the sentence of probation.

(d) If, after a hearing, the court determines to transfer the child, the court shall transfer the child *to an appropriate district court* on the child's 19th birthday.

TEX. FAM. CODE § 54.051 (a)-(d) (West 2016) (emphasis added).

The proceedings of the Juvenile Court in the instant case make it clear that Probationer was transferred from the jurisdiction of the Juvenile Court pursuant to section 54.051. The Amended Order Transferring Probationer's supervision clearly references this section in the first sentence. Furthermore, both the original Order placing Probationer on juvenile determinate sentence probation and the Amended Order transferring probationer clearly reference section 54.04(q), Texas Family Code. As such, it is critical to note the distinction between what type of "adult" court can accept jurisdiction of probationer's case and the type that cannot.

The crystal clear language of the statute makes it clear that, a transfer pursuant to §54.051 is made to "an appropriate *district court*." See TEX. FAM. CODE § 54.051(d) (West 2016) (emphasis added). The title of the Order from the Juvenile Court specifies that the transfer is to an appropriate "district court." (See Amended Order Transferring the

Probation Supervision to an Appropriate Adult District Court attached as Exhibit 5).

Further, the transfer order specifically provides as follows: “IT IS THEREFORE ORDERED THAT the probation supervision of **ETHAN ANTHONY COUCH** be and hereby is transferred, pursuant to Texas Family Code Section 54.051(d), to an appropriate adult **District Court** of Tarrant County, Texas...” (See Amended Order Transferring the Probation Supervision to an Appropriate Adult District Court attached as Exhibit 5 at p. 2, ¶ 2 (emphasis added))

This is in clear contrast with the language of section 54.02, Texas Family Code, which provides, as noted above: “[T]he juvenile court may waive its exclusive original jurisdiction and transfer a child to the **appropriate district court or criminal district court** for criminal proceedings . . . .” See TEX. FAM. CODE § 54.02 (West 2016) (emphasis added).

Thus, the Texas legislature has drawn a clear distinction between a “district court” and a “criminal district court” and has demonstrated that it is capable of passing a statute that confers jurisdiction of a juvenile case to a “criminal district court” for criminal proceedings if it desires to do so. The Texas legislature specifically failed to provide for or allow transfer to a “criminal district court” having ONLY civil jurisdiction in the determinate sentencing scenario at issue in this case. See TEX. FAM. CODE § 54.051 (West 2016).

## VII. Criminal vs. Civil Jurisdiction – Juvenile is Civil

It is axiomatic that juvenile proceedings in Texas are civil, not criminal, in nature.

*Carrillo v. State*, 480 S.W.2d 612, 615 (Tex. 1972); *J. J. H. v. State*, 557 S.W.2d 838, 839

(Tex. Civ. App.--Waco 1977, no writ). A juvenile case is commenced by a “petition” rather than an information or indictment, clearly indicating that a civil suit is commencing rather than a criminal one. *See* TEX. FAM. CODE §53.04 (West 2016); TEX. R. CIV. P. 22. As previously noted, the only “charging instrument” present in each of Probationer’s cases is the original Petition Alleging Probationer Engaged in Delinquent Conduct filed in the juvenile court on the 11<sup>th</sup> day of September, 2013 in cause number 323-99049-J.

In one limited situation, not applicable to this case, the Texas Legislature has permitted a juvenile Petition to be considered an indictment. That limited situation is only when all of the following conditions are met:

- 1) The grand jury approves the juvenile Petition for determinate sentencing under §53.045 of the Texas Family Code;
- 2) The Juvenile Court orders the juvenile confined in The Texas Juvenile Justice Department; *and*,
- 3) The juvenile is transferred to the Texas Department of Criminal Justice as provided by Section 152.00161(c) or 245.151(c), Human Resources Code.

TEX. FAM. CODE § 53.045(d) (West 2016) (emphasis added). Only when all of the above factors are present, the “juvenile court petition approved by a grand jury under this section [53.045] is an indictment presented by the grand jury.” *Id.* In this case, the juvenile court did not order Probationer confined in the Texas Juvenile Justice Department and, accordingly, Probationer has never been transferred to the Texas Department of Criminal Justice. Thus, this provision clearly does not apply in this case. However, this provision does demonstrate that the Texas legislature is capable, if it sees

fit, to turn a juvenile Petition into a criminal indictment for certain purposes, but has specifically failed to do so in this situation.

None of Probationer's cases were indicted by a Tarrant County Grand Jury. Nor were they ever in a position, procedurally, to be treated as an indictment under section 53.045(d). At no time has Probationer affirmatively waived indictment on any of the instant cases. The reality is Probationer's case(s) is, and always will be, civil in nature. Therefore, neither the return of an indictment nor waiver of indictment are procedurally possible.

### **VIII. Conclusion**

It is clear from reading section 54.051 in conjunction with section 54.02(a) that this is a civil case transferred to a "district court" and Tarrant County Criminal District Court Number Two, a "criminal district court," has no subject matter jurisdiction over this matter or Probationer.

The controlling case law holds that this matter, originating as it did in the Juvenile Court, is a civil rather than criminal suit. As set out in the aforementioned sections of the Texas Constitution and the Texas Government Code which specifically limit this Court's subject matter jurisdiction to criminal cases, this Court has no subject matter jurisdiction over this matter or Probationer.

Because this Court lacks subject matter jurisdiction over this matter, this Court has no authority to act whatsoever, and any orders – including the imposition of any and all conditions of probation -- previously entered by this Court in this matter are null and void.



**WHEREFORE, PREMISES CONSIDERED**, the Probationer prays that this Court will acknowledge it has no subject matter jurisdiction over this matter and rescind all orders, judgments, conditions of probation, and/or other decrees previously entered therein.

Respectfully submitted,



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ATTORNEYS FOR PROBATIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 30<sup>th</sup> day of August, 2016, a true and correct copy of the foregoing document has been personally served, via hand delivery, as indicated below:

**Lloyd Welchel  
Assistant District Attorney  
Tarrant County District Attorney's Office  
401 W. Belknap Street  
Fort Worth, Texas 76196**

  
WM. REAGAN WYNN



FILED  
TARRANT COUNTY

2013 SEP 11 AM 10:46 NO.

323-99049-J13

IN THE MATTER OF  
THOMAS A. WILDERS  
DISTRICT CLERK

IN THE 323RD DISTRICT

OF §

COURT OF

ETHAN ANTHONY COUCH §

TARRANT COUNTY, TEXAS

PETITION REGARDING CHILD ENGAGED IN DELINQUENT CONDUCT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now RILEY SHAW, Assistant Criminal District Attorney in and for Tarrant County, Texas, and represents to the Court that Respondent child, ETHAN ANTHONY COUCH, is a MALE child of 16 years of age, (date of birth 4-11-97), residing in Tarrant County, Texas, who appears to be a child that is delinquent. On the date of the offense(s) alleged herein, said Respondent was ten years of age or older and under seventeen years of age.

Your Petitioner alleges the following facts which appear to bring said child within the provisions of Title 3 of the Family Code, to-wit:

PARAGRAPH ONE: THE SAID CHILD HAS ENGAGED IN DELINQUENT CONDUCT IN THAT THE CHILD VIOLATED A PENAL LAW OF THIS STATE PUNISHABLE BY IMPRISONMENT, TO-WIT: SECTION 49.08 (B) OF THE TEXAS PENAL CODE, WHEN ON OR ABOUT THE 15TH DAY OF JUNE, 2013, IN THE COUNTY OF TARRANT AND STATE OF TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE

INTOXICATED AND, BY REASON OF SUCH INTOXICATION, CAUSED THE DEATH OF ANOTHER, SHELBY BOYLES, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY STRIKING SHELBY BOYLES WITH A MOTOR VEHICLE OPERATED BY SAID RESPONDENT,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

PARAGRAPH TWO: AND IT IS FURTHER PRESENTED THAT SAID CHILD HAS ENGAGED IN DELINQUENT CONDUCT IN THAT THE CHILD VIOLATED A PENAL LAW OF THIS STATE PUNISHABLE BY IMPRISONMENT, TO-WIT: SECTION 49.08(B) OF THE TEXAS PENAL CODE, WHEN ON OR ABOUT THE 15TH DAY OF JUNE, 2013, IN THE COUNTY OF TARRANT AND STATE OF TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE INTOXICATED AND, BY REASON OF SUCH INTOXICATION CAUSED THE DEATH OF ANOTHER, HOLLIE BOYLES, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY STRIKING HOLLIE BOYLES WITH A MOTOR VEHICLE OPERATED BY SAID RESPONDENT,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE,

THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

PARAGRAPH THREE: AND IT IS FURTHER PRESENTED THAT SAID CHILD HAS ENGAGED IN DELINQUENT CONDUCT IN THAT THE CHILD VIOLATED A PENAL LAW OF THIS STATE PUNISHABLE BY IMPRISONMENT, TO-WIT: SECTION 49.08(B) OF THE TEXAS PENAL CODE, WHEN ON OR ABOUT THE 15TH DAY OF JUNE, 2013, IN THE COUNTY OF TARRANT AND STATE OF TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE INTOXICATED AND, BY REASON OF SUCH INTOXICATION, CAUSED THE DEATH OF ANOTHER, BRIAN JENNINGS, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY STRIKING BRIAN JENNINGS WITH A MOTOR VEHICLE OPERATED BY SAID RESPONDENT,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

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TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE INTOXICATED AND, BY REASON OF SUCH INTOXICATION, CAUSED THE DEATH OF ANOTHER, BREANNA MITCHELL, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY STRIKING BREANNA MITCHELL WITH A MOTOR VEHICLE OPERATED BY SAID RESPONDENT,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

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TO SOLIMON MOHMAND, WHO WAS OCCUPYING THE BED OF SAID MOTOR VEHICLE,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

PARAGRAPH SIX: AND IT IS FURTHER PRESENTED THAT SAID CHILD HAS ENGAGED IN DELINQUENT CONDUCT IN THAT THE CHILD VIOLATED A PENAL LAW OF THIS STATE PUNISHABLE BY IMPRISONMENT, TO-WIT: SECTION 49.07(C) OF THE TEXAS PENAL CODE, WHEN ON OR ABOUT THE 15TH DAY OF JUNE, 2013, IN THE COUNTY OF TARRANT AND STATE OF TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE INTOXICATED AND, BY REASON OF SUCH INTOXICATION, CAUSED SERIOUS BODILY INJURY TO, SERGIO MOLINA, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY CAUSING THE MOTOR VEHICLE OPERATED BY THE RESPONDENT TO LEAVE THE ROADWAY WHICH RESULTED IN THE MOTOR VEHICLE ROLLING OVER, CAUSING SERIOUS BODILY INJURY TO SERGIO MOLINA, WHO WAS OCCUPYING THE BED OF SAID MOTOR VEHICLE,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE,



THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY.

Your Petitioner further alleges that the name and residence of the parent(s)/guardian(s) of said child, Ethan Anthony Coach, are Fred and Tonya Couch, 4324 Silver Creek Rd., Fort Worth, Tarrant County, Texas 76108.

That the name and residence of the person or persons having custody and control of said child, Ethan Anthony Coach, are Fred and Tonya Couch, 4324 Silver Creek Rd., Fort Worth, Tarrant County, Texas 76108.

Wherefore, your Petitioner prays for such citation and notice as the law requires, and that a hearing is had to determine if the said ETHAN ANTHONY COUCH is a child that is delinquent.

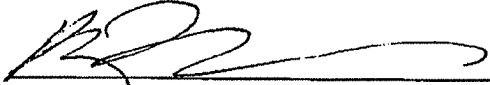
It is further prayed that upon disposition and after hearing that the child and/or the child's parent, guardian or custodian, after being given a reasonable opportunity to be heard, be ordered to pay: (1) all restitution assessed in this case, (2) the fee awarded the Court appointed attorney, (3) court costs in the amount of \$20, when the said person is financially able to do so, (4) a reasonable sum for support if the child is placed outside the home on probation or committed

to TJJD when the said person is financially able to do so, (5) a probation fee of not more than \$15 a month should the child be placed on probation, during the period of probation, when the said person is financially able to do so, (6) restitution for any treatment programs ordered by the Court, including, but not limited to any costs associated with electronic monitoring, (7) if the child is adjudicated of a felony and a DNA sample is required by Section 54.0409 of the Texas Family Code, a \$50 fee if the child is committed to the Texas Juvenile Justice Department, or a \$34 fee if the child is not committed to the Texas Juvenile Justice Department, (8) a \$50 juvenile delinquency prevention fee.

Respectfully submitted,

JOE SHANNON, JR.  
CRIMINAL DISTRICT ATTORNEY  
TARRANT COUNTY, TEXAS

BY

  
RILEY SHAW, ASSISTANT  
CRIMINAL DISTRICT ATTORNEY  
TARRANT COUNTY, TEXAS  
STATE BAR # 00791645  
DATE: SEPTEMBER 10, 2013



FILED  
TARRANT COUNTY

NO. 323-99049-J13

IN THE MATTER  
OF 2013 SEP 13 PM 4:41

§  
§  
§

IN THE 323RD DISTRICT  
COURT OF  
TARRANT COUNTY, TEXAS

ETHAN ANTHONY COUCH  
THOMAS A WILDER  
DISTRICT CLERK

GRAND JURY APPROVAL OR DISAPPROVAL OF JUVENILE COURT PETITION PURSUANT TO TEXAS FAMILY CODE SECTION 53.045 (DETERMINATE SENTENCING)

The Grand Jury for the County of Tarrant, State of Texas, duly sworn, charged and organized as such at the JULY, 2013 Term of the Grand Jury for said County, upon their oaths do present to the Court at that Term that it has considered approval, pursuant to Texas Family Code Section 53.045 (Determinate Sentencing), of the Petition Regarding Child Engaged in Delinquent Conduct previously filed in Cause Number 323-99049-J13 in the 323<sup>rd</sup> District Court of Tarrant County, Texas, sitting as a Juvenile Court, which was referred to this Grand Jury and considered by it, and which alleges that ETHAN ANTHONY COUCH, d.o.b. 04-11-1997, has engaged in delinquent conduct by committing the offense(s) of INTOXICATION MANSLAUGHTER, as alleged in Paragraphs One, Two, Three and Four, of said Petition Regarding Child Engaged in Delinquent Conduct, and that it votes as follows:

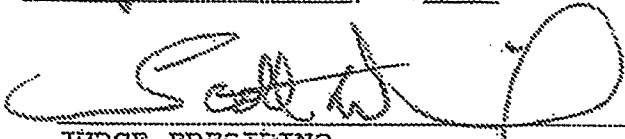
APPROVAL:

By a vote of at least nine (9) of its members, this Grand Jury FINDS PROBABLE CAUSE to believe that ETHAN ANTHONY COUCH has engaged in delinquent conduct by committing the offense(s) of INTOXICATION MANSLAUGHTER, as alleged in Paragraphs One, Two, Three and Four, of the Petition Regarding Child Engaged in Delinquent Conduct on file in Cause Number 323-99049-J13, attached hereto, and APPROVES SAID PETITION pursuant to Texas Family Code Section 53.045.

  
FOREPERSON OF THE GRAND JURY

On this the 12 day of September, 2013, the Grand Jury presented to me its APPROVAL of the Petition Regarding Child Engaged in Delinquent Conduct pursuant to Texas Family Code Section 53.045 attached hereto and previously filed in Cause Number 323-99049-J13.

Signed this the 12 day of September, 2013.

  
JUDGE PRESIDING

**DISAPPROVAL:**

This Grand Jury **DISAPPROVES** the First Amended Petition Regarding Child Engaged in Delinquent Conduct attached hereto and previously filed in Cause Number 323-99049-J13 pursuant to Texas Family Code Section 53.045.


\_\_\_\_\_  
FOREPERSON OF THE GRAND JURY

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Grand Jury presented to me its **DISAPPROVAL**, pursuant to Texas Family Code Section 53.045, of the Petition Regarding Child Engaged in Delinquent Conduct attached hereto and previously filed in Cause Number 323-99049-J13.

\_\_\_\_\_  
JUDGE PRESIDING

**CERTIFICATION TO JUVENILE COURT**

I, Lori Brown, Deputy District Clerk of Tarrant County, Texas, do hereby certify to the 323rd District Court of Tarrant County, Texas sitting as a Juvenile Court, that the Grand Jury of Tarrant County, Texas has found probable cause to believe that **ETHAN ANTHONY COUCH** engaged in delinquent conduct by committing the offense(s) of **INTOXICATION MANSLAUGHTER**, as alleged in Paragraphs One, Two, Three and Four of the Petition Regarding Child Engaged in Delinquent Conduct previously filed in Cause Number 323-99049-J13 and attached hereto and has presented its approval of the Petition pursuant to Texas Family Code Section 53.045 to the Presiding Judge of the Grand Jury of Tarrant County, Texas.

  
\_\_\_\_\_  
DEPUTY DISTRICT CLERK  
TARRANT COUNTY, TEXAS

DATE SEP 12 2013

FILED  
TARRANT COUNTY

EXACT COPY

2013 SEP 11 AM 10:46 NO.

323-99049-J13

IN THE MATTER

THOMAS A. WILDER §  
DISTRICT CLERK §

IN THE 323RD DISTRICT

OF

COURT OF

ETHAN ANTHONY COUCH §

§

TARRANT COUNTY, TEXAS

PETITION REGARDING CHILD ENGAGED IN DELINQUENT CONDUCT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now RILEY SHAW, Assistant Criminal District Attorney in and for Tarrant County, Texas, and represents to the Court that Respondent child, ETHAN ANTHONY COUCH, is a MALE child of 16 years of age, (date of birth 4-11-97), residing in Tarrant County, Texas, who appears to be a child that is delinquent. On the date of the offense(s) alleged herein, said Respondent was ten years of age or older and under seventeen years of age.

Your Petitioner alleges the following facts which appear to bring said child within the provisions of Title 3 of the Family Code, to-wit:

PARAGRAPH ONE: THE SAID CHILD HAS ENGAGED IN DELINQUENT CONDUCT IN THAT THE CHILD VIOLATED A PENAL LAW OF THIS STATE PUNISHABLE BY IMPRISONMENT, TO-WIT: SECTION 49.08(B) OF THE TEXAS PENAL CODE, WHEN ON OR ABOUT THE 15TH DAY OF JUNE, 2013, IN THE COUNTY OF TARRANT AND STATE OF TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE

INTOXICATED AND, BY REASON OF SUCH INTOXICATION, CAUSED THE DEATH OF ANOTHER, SHELBY BOYLES, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY STRIKING SHELBY BOYLES WITH A MOTOR VEHICLE OPERATED BY SAID RESPONDENT,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

PARAGRAPH TWO: AND IT IS FURTHER PRESENTED THAT SAID CHILD HAS ENGAGED IN DELINQUENT CONDUCT IN THAT THE CHILD VIOLATED A PENAL LAW OF THIS STATE PUNISHABLE BY IMPRISONMENT, TO-WIT: SECTION 49.08(B) OF THE TEXAS PENAL CODE, WHEN ON OR ABOUT THE 15TH DAY OF JUNE, 2013, IN THE COUNTY OF TARRANT AND STATE OF TEXAS, HE DID THEN AND THERE OPERATE A MOTOR VEHICLE IN A PUBLIC PLACE WHILE INTOXICATED AND, BY REASON OF SUCH INTOXICATION CAUSED THE DEATH OF ANOTHER, HOLLIE BOYLES, THROUGH ACCIDENT OR MISTAKE, NAMELY: BY STRIKING HOLLIE BOYLES WITH A MOTOR VEHICLE OPERATED BY SAID RESPONDENT,

AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE,

THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

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AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

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AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY,

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TO SOLIMON MOHMAND, WHO WAS OCCUPYING THE BED OF SAID MOTOR VEHICLE,

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AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT DURING THE COMMISSION OF THE ABOVE DESCRIBED FELONY, THE SAID RESPONDENT DID USE A DEADLY WEAPON, TO-WIT: A MOTOR VEHICLE,

THAT IN THE MANNER OF ITS USE OR INTENDED USE WAS CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY.

Your Petitioner further alleges that the name and residence of the parent(s)/guardian(s) of said child, Ethan Anthony Coach, are Fred and Tonya Couch, 4324 Silver Creek Rd., Fort Worth, Tarrant County, Texas 76108.

That the name and residence of the person or persons having custody and control of said child, Ethan Anthony Coach, are Fred and Tonya Couch, 4324 Silver Creek Rd., Fort Worth, Tarrant County, Texas 76108.

Wherefore, your Petitioner prays for such citation and notice as the law requires, and that a hearing is had to determine if the said ETHAN ANTHONY COUCH is a child that is delinquent.

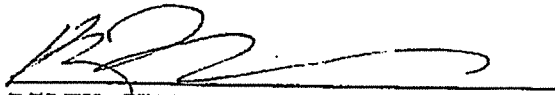
It is further prayed that upon disposition and after hearing that the child and/or the child's parent, guardian or custodian, after being given a reasonable opportunity to be heard, be ordered to pay: (1) all restitution assessed in this case, (2) the fee awarded the Court appointed attorney, (3) court costs in the amount of \$20, when the said person is financially able to do so, (4) a reasonable sum for support if the child is placed outside the home on probation or committed

to TJJD when the said person is financially able to do so, (5) a probation fee of not more than \$15 a month should the child be placed on probation, during the period of probation, when the said person is financially able to do so, (6) restitution for any treatment programs ordered by the Court, including, but not limited to any costs associated with electronic monitoring, (7) if the child is adjudicated of a felony and a DNA sample is required by Section 54.0409 of the Texas Family Code, a \$50 fee if the child is committed to the Texas Juvenile Justice Department, or a \$34 fee if the child is not committed to the Texas Juvenile Justice Department, (8) a \$50 juvenile delinquency prevention fee.

Respectfully submitted,

JOE SHANNON, JR.  
CRIMINAL DISTRICT ATTORNEY  
TARRANT COUNTY, TEXAS

BY

  
RILEY SHAW, ASSISTANT  
CRIMINAL DISTRICT ATTORNEY  
TARRANT COUNTY, TEXAS  
STATE BAR # 00791645  
DATE: SEPTEMBER 10, 2013



IN THE MATTER	NO. 99049-J	IN THE 323RD DISTRICT
OF	}{	COURT OF
ETHAN ANTHONY COUCH	}{	TARRANT COUNTY, TEXAS

JUDGMENT FOR DETERMINATE AND INDETERMINATE  
SENTENCING WITHOUT JURY TRIAL

On this the 4TH DAY OF DECEMBER, 2013, in this Court sitting as a Juvenile Court, there was called a hearing for consideration of the matters in the above styled and numbered cause, wherein by proper petition the said ETHAN ANTHONY COUCH is alleged to have engaged in delinquent conduct.

And after due notice had been served on all parties for the time required by law, came and appeared the petitioner by its Assistant District Attorneys, RILEY SHAW AND RICHARD ALPERT, and announced ready for such hearing. And thereupon also came the child, who appeared in person, with his parent(s)/guardian(s), FRED AND TONYA COUCH, and the child's attorneys, SCOTT BROWN AND REAGAN WYNN, also being present; and all parties announced ready for trial; and thereupon the Court after hearing the pleadings of all the parties and after hearing the evidence and argument of counsel, finds beyond a reasonable doubt that the allegations in paragraph(s) ONE, TWO, THREE, FOUR, FIVE AND SIX of the petition filed herein are true and supported by the evidence.

The Court finds that on this the 4TH DAY OF DECEMBER, 2013, said child was adjudicated delinquent in Paragraph(s) ONE, TWO, THREE AND FOUR of the petition for the offense(s) of INTOXICATION MANSLAUGHTER, Penal Code Section(s) 49.08(B), and in Paragraphs FIVE AND SIX of the Petition for the offenses of Intoxication Assault, Penal Code Section(s) 49.07(c), each of which are FELONIES, and the date of each offense was on the 15TH DAY OF JUNE, 2013.

The Court also finds that a deadly weapon, to-wit: a motor vehicle, that in the manner of its use or intended use was capable of causing death or serious bodily injury, was used during the

COURT'S MINUTES  
TRANSACTION # 67


RB

commission of this offense, and the Respondent himself used or exhibited that deadly weapon.

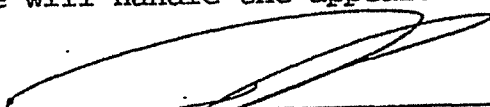
The Court also finds that the said child was born on 04-11-97, and that PARAGRAPHS ONE, TWO, THREE AND FOUR of the petition were previously approved by the Grand Jury for a Determinate Sentence under section 53.045, Texas Family Code.

IT IS THEREFORE CONSIDERED AND ADJUDGED BY THE COURT that ETHAN ANTHONY COUCH has engaged in delinquent conduct within the meaning of Section 51.03, Texas Family Code. IT IS FURTHER ADJUDGED that said delinquent conduct included one or more violations of a penal law listed in Section 53.045(a) of the Texas Family Code, namely INTOXICATION MANSLAUGHTER.

SIGNED AND ENTERED on this the 11 day of April, 2014

  
\_\_\_\_\_  
Presiding Judge  
Tarrant County, Texas

On entry of the above and foregoing order, the Court advised the child and his parents, guardian, or guardian ad litem of the child's right to appeal, of the child's right to representation by counsel on appeal, and of the child's right to appointment of an attorney for appeal if an attorney cannot be obtained because of indigency. The attorney was instructed that if the child, and his parent, guardian, or guardian ad litem express a desire to appeal, the attorney shall file a notice of appeal with this Court and inform this Court whether or not he will handle the appeal.

  
\_\_\_\_\_  
Presiding Judge





NO. 323-99049-J

IN THE MATTER

§

IN THE 323RD DISTRICT

OF

§

COURT OF

ETHAN ANTHONY COUCH

§

TARRANT COUNTY, TEXAS

AMENDED ORDER TRANSFERRING THE PROBATION SUPERVISION TO AN APPROPRIATE ADULT DISTRICT COURT

BE IT REMEMBERED that on the 19<sup>th</sup> day of FEBRUARY, 2016, came on to be heard the above-styled and numbered cause pursuant to Section 54.051 (d) of the Texas Family Code, on the issue of transfer of probation of **ETHAN ANTHONY COUCH** (also sometimes referred to herein as "Probationer" and "Respondent"), whose date of birth is April 11, 1997, to an appropriate adult District Court of Tarrant County, Texas for further supervision. Prior thereto, on the **4TH DAY OF DECEMBER, 2013**, the Respondent was found in this Cause to have engaged in delinquent conduct, namely **FOUR PARAGRAPHS of INTOXICATION MANSLAUGHTER**, each of which was committed on the **15<sup>TH</sup> DAY OF JUNE, 2013**, with an affirmative finding by the Court that a **deadly weapon** was used by the Respondent in the commission of the offenses. The Petition in this Cause was previously approved by the Grand Jury of Tarrant County for a Determinate Sentence under Texas Family Code Section 53.045, which approval was duly certified to the Juvenile Court and was entered in the record of this Cause on September 13, 2013.

Further, on the **10TH DAY OF DECEMBER, 2013**, a disposition hearing was held and the Respondent was sentenced to **TEN years** confinement in the Texas Juvenile Justice Department with a possible transfer to the Texas Department of Criminal Justice for each of said offenses and was placed on probation for a term of **TEN years** in accordance with Sections 53.045 and 54.04(q) of the Texas

Family Code.

Pursuant to and in full accordance with Section 54.051 of the Texas Family Code, after due notice had been issued on all parties, came and appeared the Petitioner by **RILEY SHAW** and **RICHARD ALPERT**, Assistant Criminal District Attorneys in and for Tarrant County, Texas. And thereupon also came the Respondent who appeared in person with his attorneys, **SCOTT BROWN** and **REAGAN WYNN**, and the Respondent's parent(s), guardian, or guardian ad litem, **FRED COUCH**. All parties announced ready for this hearing. Then, after hearing the pleadings of all parties and considering the evidence and argument of counsel, the Court found the following:

(1) that the Respondent was born on April 11, 1997; therefore this hearing was held before the Respondent's 19th birthday, pursuant to Section 54.051(b) of the Texas Family Code;

(2) that the term of probation imposed by the Court in this Cause is scheduled to expire on the 5<sup>th</sup> day of February, 2024, which is a date after the Respondent's 19<sup>th</sup> birthday; and

(2) that the Respondent is in need of continued probation supervision after his 19<sup>th</sup> birthday.

IT IS THEREFORE ORDERED THAT the probation supervision of **ETHAN ANTHONY COUCH** be and hereby is transferred, pursuant to Texas Family Code Section 54.051(d), to an appropriate adult District Court of Tarrant County, Texas (the "Receiving Court"), on the 11<sup>TH</sup> DAY OF APRIL, 2016, the probationer's 19th birthday. Respondent is hereby ordered to report to the Tarrant County Community Supervision and Corrections Department (located at 200 W. Belknap, Fort Worth, Texas 76196), on his 19<sup>th</sup> birthday.

IT IS FURTHER ORDERED that the Clerk of the 323<sup>rd</sup> District Court transmit to the District Clerk on behalf of the Receiving Court a certified copy of the Court's complete file in this Cause on or before the date which is seven (7) days prior to 11<sup>TH</sup> DAY OF APRIL, 2016, the probationer's 19<sup>th</sup> birthday. The Clerk of the

Receiving Court is hereby ordered to include only the petition, the grand jury approval, the judgment concerning the conduct for which the Probationer was placed on probation, and this Amended Transfer Order as part of the District Clerk's public record. It is further ordered that all other documents transmitted by the Clerk of the 323<sup>rd</sup> District Court pursuant to this Amended Order shall not be considered part of the public record of the District Clerk for the Receiving Court and will be accessible only by the Receiving Court, attorneys for the Petitioner and/or the State, attorneys for the Probationer and his parents, employees of the Tarrant County Community Supervision and Corrections Department, and employees of the Texas Department of Criminal Justice. Additionally, the District Clerk shall notify this Court, the Receiving Court, and Tarrant County Juvenile Services that the file has been transferred in accordance with this Order.

This Court finds that the Tarrant County Community Supervision and Corrections Department will be responsible for supervision of the Respondent's probation after transfer to District Court, and said Department therefore has a legitimate interest in this proceeding.

IT IS THEREFORE ORDERED that Tarrant County Juvenile Services release a copy of the Respondent's juvenile probation file, including, but not limited to, all examinations, evaluations, and reports from doctors and counselors, to the Tarrant County Community Supervision and Corrections Department.

Signed and entered by me on this 5 day of April, 2016.



JUDGE PRESIDING

A CERTIFIED COPY  
ATTEST: April 5, 2016

THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: Sharon Byrd

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