



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00088-CV

IN THE MATTER OF R.E.J.

From the 216th Judicial District Court, Kendall County, Texas
Trial Court No. 16-011-JV
Honorable Bill R. Palmer, Judge Presiding

Opinion by: Karen Angelini, Justice

Sitting: Sandee Bryan Marion, Chief Justice
Karen Angelini, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: December 6, 2017

AFFIRMED

In the underlying criminal matter, a juvenile court waived its jurisdiction and transferred R.E.J.'s criminal case to district court to stand trial as an adult. The juvenile court found there was probable cause to believe R.E.J. committed the following offenses: attempted capital murder, aggravated robbery, burglary of a habitation, and aggravated assault. In three issues on appeal, R.E.J. asserts (1) there is insufficient evidence to support the probable cause finding that he committed capital murder, (2) the juvenile court abused its discretion by waiving jurisdiction and transferring the case to criminal district court, and (3) the evidence is insufficient to support the juvenile court's findings under subsection (f) of Texas Family Code section 54.02. We affirm.

PROBABLE CAUSE

A juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court for criminal proceedings if:

- (1) the child is alleged to have violated a penal law of the grade of felony;
- (2) the child was:
 - (A) 14 years of age or older at the time he is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; or
 - (B) 15 years of age or older at the time the child is alleged to have committed the offense, if the offense is a felony of the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and
- (3) *after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.*

TEX. FAM. CODE ANN. § 54.02(a) (West 2014) (emphasis added).

R.E.J. was charged with several felonies; however, on appeal, he challenges the sufficiency of the evidence only on the probable cause finding as to capital murder.

A. Findings of Fact

As an initial matter, we address R.E.J.'s argument that the transfer order must be reversed because there are no case-specific findings of fact to support the probable cause determination.

“If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court” TEX.

FAM. CODE § 54.02(h). The Texas Court of Criminals Appeals has stated:

. . . Section 54.02(h) obviously contemplates that both the juvenile court's reasons for waiving its jurisdiction and the findings of fact that undergird those reasons should appear in the transfer order. In this way the Legislature has required that, in order to justify the broad discretion invested in the juvenile court, that court should take pains to “show its work,” as it were, by spreading its deliberative process on the record, thereby providing a sure-footed and definite basis from which an appellate court can determine that its decision was in fact appropriately guided by the statutory criteria, principled, and reasonable

Moon v. State, 451 S.W.3d 28, 49 (Tex. Crim. App. 2014); *see also Rodriguez v. State*, 478 S.W.3d 783, 786 (Tex. App.—San Antonio 2015, pet. ref'd) (juvenile court's order must show 54.02(f) factors were considered in making determination).

In this case, the juvenile court's Waiver of Jurisdiction and Order of Transfer stated only that there was "probable cause to believe [R.E.J.] committed the offenses alleged in the Original Petition for Discretionary Transfer to Criminal Court" However, the juvenile court later entered specific additional findings of fact on the issue of probable cause. The juvenile court found R.E.J. admitted he entered Jenks Boston's home with the intent to steal and he admitted he stabbed Boston. The court also found that a fingerprint matched to R.E.J. was found on Boston's truck; R.E.J. and another juvenile were described by Boston; R.E.J. and the other juvenile were seen driving away from Boston's house within a short time of Boston calling 911; and R.E.J. and the other juvenile fled law enforcement in a high-speed chase. We conclude these findings are sufficiently case specific with regard to the probable cause finding. *See Matthews v. State*, 513 S.W.3d 45, 57 (Tex. App.—Houston [14th Dist.] 2016, pet. ref'd) (among other case-specific findings, juvenile court sufficiently stated, "There was probable cause to believe that appellant committed the felony offense of capital murder against a person"); *Rodriguez*, 478 S.W.3d at 789 (among other case-specific findings, juvenile court sufficiently stated, "Following a full investigation and hearing, the Court found probable cause to believe the child committed the offense"). We next address R.E.J.'s argument that the evidence is legally and factually insufficient to support the juvenile court's probable cause finding as to capital murder.

B. Standard of Review

A waiver or transfer hearing is not held for the purpose of determining guilt or innocence; it is held for "the purpose of establishing whether the child's and society's best interest are met by maintaining juvenile custody of the child or by transferring the child to district court for adult

proceedings.” *Matter of A.A.*, 929 S.W.2d 649, 653 (Tex. App.—San Antonio 1996, no writ). “While the presumption of innocence applies to ‘adjudication’ proceedings, it does not apply to ‘transfer’ proceedings in which the issue is merely whether the juvenile should be tried as an adult.” *Id.*

The juvenile court need only determine probable cause that the juvenile committed the offense charged. *Id.* “Probable cause” for this purpose is defined as sufficient facts and circumstances to warrant a prudent individual to believe the suspect committed or was committing an offense. *Id.* “The probable cause standard of proof embraces a practical, common sense approach rather than the more technical standards applied in the burdens of proof either beyond a reasonable doubt or a preponderance of the evidence.” *In re J.P.O.*, 904 S.W.2d 695, 700 (Tex. App.—Corpus Christi 1995, writ denied). The State does not bear the burden to establish the juvenile’s guilt, but only to present evidence that will allow the juvenile court to exercise its sound discretion in transferring the case to district court for criminal proceedings. *Matter of A.A.*, 929 S.W.2d at 653.

C. Factual Background

Because no adjudication hearing had yet been conducted concerning any of the alleged offenses, the following background is taken from the hearing on the State’s petition for discretionary transfer to criminal court.

Jenks Boston testified he spent the morning of March 23, 2016, working in his yard at his home in the City of Fair Oaks Ranch. At the time, his wife and children were not at home. At about mid-morning, Boston decided to shower and prepare for a meeting he had in San Antonio. When he dressed, he placed his handgun into a holster on his belt. As he walked out of his bedroom, Boston glanced into a study/office area and noticed a three-foot long iron stake used to post real estate signs laying on the couch. Because Boston recognized the stake as one he kept in

the garage, he stepped up to the couch to look at it. As he did so, he felt “a very severe blow from behind,” he went down on the couch, and someone started to “punch and stab [him] very, very violently, very rapidly from behind.” As he turned to try to push his attacker away, Boston saw a knife. His attacker turned and ran. Boston saw another person in the house who also turned and ran away. Both individuals ran through the house, through the kitchen, and out to the driveway. Boston ran after the two individuals, but by the time he reached his driveway, they were in their car driving away. He said he noticed the contents of the glove compartment of his pickup truck were strewn everywhere. Boston said he drew his gun and pointed it at the two individuals as he ran after them, but he did not fire the weapon. Boston said the gun was not visible to his attacker because the gun was concealed under a long shirt that was not tucked into his pants.

Boston said he could only identify the two individuals as two young teenage Hispanic males. As he watched the two juveniles drive away, Boston realized he was standing in a puddle of blood. He called 911 while trying to put pressure on his wounds. Dr. Vela, a physician who treated Boston, said Boston sustained “three pretty significant stab wounds to his upper right back and a less minor [sic] injury to the right side of his face.” Dr. Vela agreed Boston sustained “a serious bodily injury.”

City of Boerne Police Officer Douglas Meuth testified he answered a dispatch call from someone—later identified as Jenks Boston—saying he had been stabbed and mugged in his home. When Officer Meuth arrived at the Boston house, another officer was present and administering first aid to Boston. Kendall County Sherriff’s Office Investigator James Whitt testified he pulled fingerprints from Boston’s truck that were later identified as belonging to R.E.J. Whitt said the bloody kitchen knife measured eleven inches long, and the metal stake measured about forty-eight inches long. Whitt also testified about R.E.J.’s possible gang affiliation.

In the meantime, based on Boston's description of the car driven by the juveniles, police were able to locate and stop the vehicle. The driver of the car briefly stopped and then drove off again at a high speed, approaching 100 miles per hour while travelling into the on-coming lane of traffic and on the shoulder of the road. At one point, the driver of the car drove through a busy intersection at about eighty miles per hour. The driver eventually crashed into another vehicle, bringing the high-speed chase to an end. R.E.J. exited the car and ran directly toward another police officer. R.E.J. identified himself to the officer who took R.E.J. into custody and transported him to the police station.

While at the police station, R.E.J. received the magistrate's warnings before giving his video-recorded statement to the police. In his statement, R.E.J. admitted he and his friend entered the Boston house through the open garage door to steal from the house. When he heard a man's voice, R.E.J. got a knife from the kitchen to intimidate the man. However, when R.E.J. saw the man had a gun, he stabbed the man to prevent the man from shooting him. R.E.J. said he and his friend were both afraid as they entered the house, and his friend brought the metal stake into the house to defend himself. R.E.J. agreed with the police officers interviewing him that he could have left the house instead of stabbing Boston, but at the time everything happened "so fast." R.E.J. said this was the first time he had ever been in this neighborhood.

Lieutenant Thomas Matjeka countered R.E.J.'s version of the events by testifying R.E.J. would have had to pass the front door to get the knife from the kitchen, which was near the garage. At both points in time—passing the front door and while in the kitchen—R.E.J. could have exited the house instead of returning to the study/office to attack Boston.

D. Sufficiency of the Evidence on Probable Cause

We conclude there are sufficient facts and circumstances to warrant a prudent individual to believe R.E.J. committed or was committing an offense. R.E.J. admitted entering the Boston

home to steal. Instead of exiting the house when he heard the sound of a man's voice, he armed himself with a knife and stabbed Boston. Boston testified he was first struck from behind and then stabbed several times. Dr. Vela characterized Boston's wounds as serious. Both R.E.J. and the other juvenile fled the scene and drove at a high rate of speed in a manner that endangered other people on the road. We conclude the evidence is sufficient to support the juvenile court's finding that there was "probable cause to believe [R.E.J.] committed the offenses alleged in the Original Petition for Discretionary Transfer to Criminal Court"

DISCRETIONARY TRANSFER FACTORS

Prior to the transfer hearing, the juvenile court "shall order and obtain a complete diagnostic study, social evaluation, and full investigation of the child, his circumstances, and the circumstances of the alleged offense." TEX. FAM. CODE § 54.02(d). "At the transfer hearing the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses." *Id.* § 54.02(e).

In determining whether to waive jurisdiction and transfer the child, the court shall consider, among other matters:

- (1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;
- (2) the sophistication and maturity of the child;
- (3) the record and previous history of the child; and
- (4) the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

Id. § 54.02(f). The court may order a transfer on the strength of any combination of these factors.

Hidalgo v. State, 983 S.W.2d 746, 754 n.16 (Tex. Crim. App. 1999).

In his second issue, R.E.J. asserts the evidence is insufficient to support the juvenile court's findings under section 54.02(f). R.E.J. concedes the evidence showed the first factor, that the

alleged offense was against a person, but he argues the evidence is insufficient to support findings on the remaining three factors.

A. Standard of Review

“[I]n evaluating a juvenile court’s decision to waive its jurisdiction, an appellate court should first review the juvenile court’s specific findings of fact regarding the Section 54.02(f) factors under ‘traditional sufficiency of the evidence review.’” *Moon*, 451 S.W.3d at 47. Under a legal sufficiency challenge, we credit evidence favorable to the challenged finding if a reasonable factfinder could, and disregard contrary evidence unless a reasonable fact finder could not. *City of Keller v. Wilson*, 168 S.W.3d 802, 827 (Tex. 2005). If there is more than a scintilla of evidence to support the finding, a legal sufficiency challenge fails. *BMC Software Belgium, N.V. v. Marchand*, 83 S.W.3d 789, 795 (Tex. 2002); *Faisst v. State*, 105 S.W.3d 8, 12 (Tex. App.—Tyler 2003, no pet.). Under a factual sufficiency challenge, we consider all of the evidence presented to determine if the court’s finding is so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. *Moon*, 451 S.W.3d at 46 n.75 (internal citations omitted); *C.M. v. State*, 884 S.W.2d 562, 563 (Tex. App.—San Antonio 1994, no writ). Our review of the sufficiency of the evidence supporting a juvenile court’s waiver of jurisdiction is limited to the facts the court expressly relied on in its transfer order. *Moon*, 451 S.W.3d at 50.

We must then review the juvenile court’s ultimate waiver decision under an abuse of discretion standard. *Id.* at 47. “That is to say, in deciding whether the juvenile court erred to conclude that the seriousness of the offense alleged and/or the background of the juvenile called for criminal proceedings for the welfare of the community, the appellate court should simply ask, in light of its own analysis of the sufficiency of the evidence to support the Section 54.02(f) factors and any other relevant evidence, whether the juvenile court acted without reference to guiding rules or principles.” *Id.* We must, however, remain mindful that “not every Section 54.02(f) factor

must weigh in favor of transfer to justify the juvenile court's discretionary decision to waive its jurisdiction." *Id.* A juvenile court does not abuse its discretion if its transfer decision "represent[s] a reasonably principled application of the legislative criteria." *Id.* The juvenile court must, however, "show its work" and specifically state the reasons for waiver. *Id.* at 49. "The juvenile court that shows its work should rarely be reversed." *Id.*

B. Sophistication and Maturity of the Child

R.E.J. was approximately fifteen years old at the time of the alleged offenses. In its waiver and transfer order, the trial court found R.E.J. to be "sufficiently sophisticated and mature enough to be transferred into the criminal justice system and he understands the allegations, the court proceedings, and their possible consequences"; and R.E.J. was "able to assist his attorney in his defense." The juvenile court also found the following additional facts in support of the transfer:

1. Dr. Lisa Watts and Dr. Stephen Thorne, clinical psychologists, tested and evaluated [R.E.J.] and concluded that he was able to understand the allegations and court proceedings.
2. Both psychologists believed [R.E.J.] was able to assist his attorney in his defense.
3. Both psychologists and Probation Officer Gilbert found [R.E.J.] understand[s] right from wrong.
4. Judge Debby Hudson provided the magistrate warnings to [R.E.J.] and believed him to be able to understand his constitutional rights and that he voluntarily, knowingly, and intelligently waived these rights.
5. Probation Officer Debbie Gilbert found [R.E.J.] to be mature and sophisticated.
6. Dr. Watts and Dr. Thorne reported [R.E.J.'s] IQ in the low average range but not intellectually deficient.
7. Dr. Thorne reported [R.E.J.] does not have any serious mental health diseases to interfere with his understanding of proceedings.

Dr. Thorne testified he is a licensed psychologist who evaluated R.E.J. for the purpose of determining whether R.E.J. met the criteria to be transferred to criminal court. Dr. Thorne considered R.E.J. to be "an immature, unsophisticated kid." Although he did not specifically state R.E.J. "was able to understand the allegations and court proceedings," Dr. Thorne testified R.E.J.'s understanding of the allegations against him "[was] very consistent with everything —

with the offense records” Dr. Thorne agreed R.E.J. could adequately participate in the proceedings in the criminal justice system, and he did not believe R.E.J. was unfit to proceed or that he lacked competency.

According to Dr. Thorne, R.E.J.’s overall IQ was eighty-five, which was in the low average range placing R.E.J. in the bottom one-sixteenth percentile compared to his peers. R.E.J.’s scores on various intellectual tests were equivalent to those of a ten-year-old to thirteen-year-old. Based on R.E.J.’s scores, Dr. Thorne did not believe R.E.J. was intellectually deficient.

Dr. Thorne also administered various tests to evaluate R.E.J.’s emotional functioning. These tests showed R.E.J. had some social and emotional issues, he is not a leader, and he worries about how others perceive him. Dr. Thorne did not believe R.E.J. was chronically antisocial, but he thought R.E.J. was someone who would engage in delinquent behavior when he was in the wrong peer group and using drugs. He thought R.E.J. was “an emotionally immature kid.” On another test, R.E.J. “did come out as having a higher level of sophistication and maturity.” However, based on Dr. Thorne’s own evaluation, he did not believe R.E.J. had a high level of sophistication and maturity. When asked if R.E.J. possessed a level of sophistication and maturity expected of someone R.E.J.’s age, Dr. Thorne responded

Again, maybe some legal maturity, maybe some level of intellectual maturity, some relatively physically mature [sic] but not psychologically and emotionally sophisticated and mature at a level that would be expected of somebody his age.

. . .

[W]hen I look at the law and the factors that I’m told to consider in these types of evaluations, I do not think his case meets [the] criteria to be tried — to be tried in the adult criminal justice system.

On cross-examination, Dr. Thorne stated there was nothing he observed while interacting with R.E.J. that led him to think R.E.J. was unfit to proceed or that he lacked any competency, and he agreed R.E.J. had no psychosis, schizophrenia, or bipolar disorders.

Dr. Lisa Watts did not testify, but the trial court took judicial notice of her psychological evaluation. Dr. Watts's assessment of R.E.J. showed his intellectual abilities to be in the low average to average range. Although she did not specifically state R.E.J. "was able to understand the allegations and court proceedings," Dr. Watts stated R.E.J. was respectful, attentive, and able to follow all written and oral instructions; he was oriented to person, place, time, and situation; he was aware of the purpose of the evaluation and the limits of confidentiality; and he knew the results of the evaluation would be sent to the Juvenile Probation Department and that he was being assessed due to his current involvement with juvenile authorities. Dr. Watts stated R.E.J.'s school disciplinary records indicated disrespect, use of profanity, assault, truancy, and violations related to possession of marijuana.

Deborah Gilbert, a Kendall County juvenile probation officer, testified she wrote the discretionary transfer hearing report. According to Gilbert, this was the first transfer report from her office in twenty-four years, and it was a unique case. She said she did not speak to R.E.J. when she prepared her report; instead, she spoke only to R.E.J.'s mother and she reviewed his school records. Gilbert said she is not a licensed psychologist and she conducted no tests to assess R.E.J.'s maturity or level of sophistication. Although neither psychologist stated R.E.J. understood "right from wrong," Gilbert testified R.E.J. "understood what he was doing and . . . he knew that he was wrong," he was mature enough to be transferred to adult court and "to make some really big decisions," and he was intellectually mature.

Judge Debby Hudson testified she provided the magistrate warnings to R.E.J. while at the Fair Oaks Police Department. Judge Hudson agreed R.E.J. appeared to understand the warnings.

However, the trial court sustained R.E.J.'s objections to the State's questions of whether the judge knew R.E.J. understood he was waiving his rights.

The juvenile court viewed the video recording on which R.E.J. indicated he understood the warnings, and he understood but waived his right to remain silent. On the recording, Judge Hudson answered all of R.E.J.'s questions; for example, she explained the meaning of "capital" as used in capital murder; and she explained she could not arrest him but could only read him his warnings and answer questions. When R.E.J. asked if his parents knew or if they were coming, Judge Hudson said she did not know. The police told R.E.J. his parents had been called. Judge Hudson then left the room, and R.E.J. made his video-recorded statement to the police.

Although many of the findings by the juvenile court have no support in the record, other findings are supported by the record. Therefore, we must conclude the evidence is legally and factually sufficient to support the juvenile court's finding that R.E.J. was sophisticated and mature enough to be transferred to the criminal justice system.

C. The Record and Previous History of the Child

In its waiver and transfer order, the juvenile court found R.E.J. had "a record and referral history and that previous history supports that [he] stand trial as an adult." The court also found the following additional facts in support of the transfer:

1. [R.E.J.] had been suspended from school.
2. [R.E.J.] had several school violations including one for sexual harassment, and one for use of profanity and disrespect.
3. [R.E.J.] was not in any school environment at the time of the offense.
4. [R.E.J.] had previously been placed on probation in Bexar County, Texas for an assault.
5. [R.E.J.] failed to perform the counseling required and tested positive for the use of marijuana on more than one occasion while on that probation.
6. [R.E.J.] was connected to other home invasions in the Kendall County area. His fingerprints were found at another Kendall County residence and pictures of stolen property from several other Fair Oaks Ranch burglaries were found on [R.E.J.'s] phone.

7. [R.E.J.] participated in an excessively high-speed chase on busy public roads endangering the lives of many other drivers.

Gilbert testified R.E.J.'s biological father was not present in R.E.J.'s life and the father had a history of drug and alcohol abuse. Although R.E.J. did not witness domestic violence between his parents, R.E.J.'s biological father was abusive toward him. Gilbert said a criminal history background check on R.E.J. revealed arrests for the following: resisting arrest, assault with bodily injury (family member), and escaping custody in April 2005; possession of a controlled substance in April 2011; resisting arrest in May 2011; and twice for theft of property (\$50 to \$500) in October 2011. Gilbert said R.E.J.'s school records showed multiple violations: sexual harassment in May 2011; an unstated violation that resulted in a partial-day suspension in May 2013; disrespect and profanity in February 2014; two different assaults in February 2014; truancy in August 2014; in-school suspension for possession of marijuana in September 2014; and a "verbal, physical, and sexual incident" in May 2015. Because of his excessive school absences, R.E.J.'s mother unenrolled him from school in early 2016. At the time of the offenses alleged in this case, R.E.J. was not in school.

R.E.J.'s mother told Gilbert she did not believe appellant had any gang affiliation, but the police officers who worked with the school district told Gilbert that R.E.J. was on their registry and his gang name was "Goofy." In his video-recorded statement, R.E.J. denied being a member of a gang, but he admitted gang members called him "Goofy."

Dr. Thorne stated R.E.J. had "a pretty prominent history of substance abuse" and he conceded R.E.J. engaged in other illegal conduct for which he was not caught or arrested. According to Dr. Watts's report, R.E.J. got along well with his mother and step-father, but his biological father was abusive. R.E.J. used drugs extensively, and, at one point, his mother took him to an in-patient treatment center for a two-week stay. R.E.J. told Dr. Watts he successfully

completed deferred adjudication after assaulting another boy while R.E.J. was in the seventh grade. Although R.E.J. told Dr. Watts he was accused of other crimes, he said he had “not been educated regarding what each of the charges mean or what they involve.” He told Dr. Watts he had been using drugs and had not slept for over twenty-four hours at the time of the alleged offenses. R.E.J. denied disruptive behavior at school, denied having a history of learning problems, and denied being a member of a gang. During the 2014-2015 school year, R.E.J. earned A’s and B’s. However, his 2015-2016 school records indicated failing and incomplete grades, excessive absences, and multiple disciplinary violations.

One of the teachers at the juvenile facility described R.E.J. as attentive, respectful, pleasant, and engaged in learning. She said he follows directions very well, is “very teachable,” and showed “great improvement.” Another teacher at the juvenile facility described R.E.J. as cooperative, focused on his work, respectful and self-controlled, and a “model student.” She also said he showed improvement.

James Mireles, a Bexar County juvenile probation officer, testified he supervised R.E.J. while R.E.J. was on probation following his deferred adjudication for assault bodily injury. During his probation, R.E.J. tested positive for or admitted to using drugs; he refused a drug test; and he never began his required counseling. Despite some conditions of his probation not being satisfied, R.E.J.’s probation was closed as successfully completed because he satisfied other conditions.

City of Fair Oaks Ranch Police Department investigator Richard Davila testified there were home invasions in the Fair Oaks Ranch area from January 2016 until March 2016. The Boston home was the last house burglarized on March 23, 2016. Investigator James Whitt testified he pulled R.E.J.’s fingerprint from another home burglary in the area. Bexar County Sheriff’s Deputy Robert Martinez testified he photographed the scene of the car crash involving R.E.J. and his friend after they fled the Boston house. Deputy Martinez said he collected a key from the side

of the road that had been thrown from the car. Deputy Martinez also collected two cell phones from the car. Two Fair Oaks Ranch homeowners, whose homes were burglarized before the Boston home, identified several items stolen from their houses from photos on one of the cell phones. Another Fair Oaks Ranch homeowner testified that several items were stolen from his house and one of the items was a car key. The key was later identified as the one thrown from the car as R.E.J. and his friend drove away from the Boston house.

Although there is evidence R.E.J. behaved well and showed academic improvement while in the juvenile facility, we must conclude the evidence is legally and factually sufficient to support the juvenile court's finding that R.E.J.'s prior history supports his transfer to the criminal justice system.

D. The Prospects of Adequate Protection of the Public and the Likelihood of the Rehabilitation of the Child by Use of Procedures, Services, and Facilities Currently Available to the Juvenile Court

In its waiver and transfer order, the juvenile court found that because of R.E.J.'s "record and previous history and because of the extreme and severe nature of the alleged offenses the procedures, services, and facilities available to the Juvenile Court are inadequate for rehabilitation of [R.E.J.] while also protecting the public." The juvenile court also found the following additional facts in support of the transfer:

1. Dr. Thorne testified that [R.E.J.] was a moderate risk of future dangerousness.
2. Dr. Thorne described some of [R.E.J.'s] behavior as antisocial and noted that the presence of a personality disorder usually worsens the rehabilitation prognosis.
3. [R.E.J.] abused narcotics and presented with a substance abuse problem.
4. Text messages from [R.E.J.'s] phone showed he possessed guns and attempted to sell them.
5. A police video recording of [R.E.J.] showed he lacked remorse for the offense.
6. [R.E.J.] was a gang member and associated with other known gang members.
7. [R.E.J.] lacked adequate supervision in the home as demonstrated by staying away from home on numerous occasions without his mother's permission;

using narcotics repeatedly, refusing to attend school, lying to his mother, and presenting a confrontational attitude towards her.

8. The victim, his wife, and other members of the community expressed an ongoing fear of [R.E.J.].

9. [R.E.J.] is currently 16 years and six months old. A probation in juvenile court would only last until age 18. A placement in TJJD would end at age 19.

Dr. Thorne testified R.E.J. scored “as a relatively low risk for future dangerousness,” “as being somebody at a high range in terms of being amenable to treatment,” and having “the capacity to benefit from appropriate . . . treatment services.” However, based on Dr. Thorne’s own estimate, he characterized R.E.J. “as a moderate risk for future dangerousness.” Dr. Thorne testified R.E.J. has shown the ability to successfully complete counseling therapy. Dr. Thorne stated that R.E.J.’s behavior was “pretty good” during his ten-month stay in juvenile detention. Dr. Thorne said Gilbert told him R.E.J.’s behavior while in detention was “awesome.” Although R.E.J. had “relatively minor disciplinary issues at the very beginning,” the juvenile detention “staff loves him, teachers love him, he’s respectful, [and he] hasn’t been getting in fights, hasn’t been disrespecting staff.” Dr. Thorne said he spoke to one of the teachers at the juvenile detention center, and she spoke “very glowingly about” R.E.J. and he tries hard in school and he has made progress. Dr. Thorne said that during R.E.J.’s ten-month-detention, he has shown he can respond to structure and supervision in an environment such as juvenile detention. However, Dr. Thorne admitted he was aware of R.E.J.’s truancy, that he had been disciplined in middle school for profanity and disrespect, he was once suspended in the ninth grade, and, because he had more absences than attendance days, his mother withdrew him from school in early 2016.

After R.E.J. received the magistrate’s warnings and gave his video-recorded statement, he and his friend were transported to the juvenile detention center. While in the patrol car waiting for transport, both juveniles were recorded discussing the burglary of the Boston home, and coordinating their stories because, at this time, the other juvenile had not yet given a statement.

Neither showed any remorse for what happened at the Boston home. However, Dr. Thorne stated, in his assessment of R.E.J., that R.E.J. appeared to show some level of genuine remorse.

Gilbert testified that based on R.E.J.'s time already spent in the juvenile facility, if he remained in that facility, he could be released on parole in less than two years.

Mr. and Mrs. Boston, as well as other residents of the area, testified they no longer felt safe in their homes and neighborhood. Evidence at trial showed R.E.J. posing with guns.

As stated above, there is evidence R.E.J. behaved well and showed academic improvement while in the juvenile facility; however, we must conclude the evidence is legally and factually sufficient to support the juvenile court's finding that the procedures, services, and facilities available to the juvenile court are inadequate to rehabilitate R.E.J. while also protecting the public.

DID THE JUVENILE COURT ABUSE ITS DISCRETION?

Having held the evidence is sufficient to support the juvenile court's findings as to each of the section 54.02(f) factors, we next decide whether the juvenile court abused its discretion in determining that both the seriousness of the alleged offenses and R.E.J.'s background required criminal proceedings for the welfare of the community. *See Moon*, 451 S.W.3d at 47. "In other words, was [the juvenile court's] transfer decision essentially arbitrary, given the evidence upon which it was based, or did it represent a reasonably principled application of the legislative criteria?" *Id.*

The juvenile court found the alleged offenses "were of a serious nature and involve[d] the use of a deadly weapon." On appeal, R.E.J. does not challenge the seriousness of the alleged offenses. We hold the juvenile court did not abuse its discretion in concluding the welfare of the community required criminal proceedings because of the seriousness of the alleged offenses.

The evidence established a history of criminal behavior, including drug use and possible gang affiliation. R.E.J. had several school disciplinary referrals and had not been enrolled in

school due to excessive absences from school. Dr. Thorne testified R.E.J. would benefit from the services provided in the juvenile system; however, because of his age, R.E.J. might only be under the direct supervision of the juvenile justice system for two years. Given the juvenile court's detailed findings regarding R.E.J.'s background and the sufficiency of the evidence to support those findings, we hold the juvenile court did not abuse its discretion in concluding the welfare of the community required criminal proceedings because of R.E.J.'s background.

CONCLUSION

For the reasons stated above, we overrule R.E.J.'s issues on appeal and affirm the juvenile court's Waiver of Jurisdiction and Order of Transfer to a Criminal District Court.

Karen Angelini, Justice