

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-04-00410-CV

In the Matter of A. J. T.

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 98TH JUDICIAL DISTRICT
NO. J-24,557, HONORABLE ALLISON BENESCH, JUDGE PRESIDING**

MEMORANDUM OPINION

The district court found beyond a reasonable doubt that A. J. T. committed criminal trespass and adjudicated him delinquent. The court placed him on probation in the custody of his mother for six months.

A. J. T. stipulated at trial that he intentionally and knowingly entered the premises of Mendez Middle School with notice that such entry was forbidden and without the permission of a school employee, who is the owner of the school for this purpose. By his sole issue on appeal, A. J. T. contends that the district court lacked jurisdiction over him because he should have been tried under a more specific statute with a less severe punishment range. *Compare* Tex. Educ. Code Ann. § 37.107 (West 1996) (trespass on school grounds, Class C misdemeanor), *with* Tex. Pen. Code Ann. § 30.05 (West 2004-05) (trespass, Class B misdemeanor). He argues that because the lesser offense is a Class C misdemeanor and is not within the definition of delinquent conduct, the district court lacked jurisdiction. *See* Tex. Fam. Code Ann. § 51.03(a) (West Supp. 2004-05); *see also* Tex. Const. art. V, § 19 (justice court has original jurisdiction over offenses punishable by fine only).

This Court has recently concluded in a similar juvenile case that these statutes are not *in pari materia*, that the State could charge the juvenile under either statute, and that the district court had jurisdiction over the allegation of criminal trespass against the juvenile. *See In re J.M.R.*, 149 S.W.3d 289, 294-95 (Tex. App.—Austin 2004, no pet.); *see also In re K.M.*, No. 03-04-00315-CV, 2005 Tex. App. LEXIS 4661, at *2 (Austin June 17, 2005, no pet. h.). This appeal is controlled by that decision. We affirm the judgment of the district court.

David Puryear, Justice

Before Chief Justice Law, Justices Patterson and Puryear

Affirmed

Filed: July 13, 2005