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 Vol. 22, No. 30 - July 28, 2014

TIBA's Case of the Week

Case Name: [Aaron Jacob Moore v. The State of Texas](#)

- OFFENSE: Aggravated Sexual Assault of a Child
- COUNTY: Fort Bend
- C/A CASE No. 01-13-0663-CR
- DATE OF OPINION: July 24, 2014
- DISPOSITION: Conviction Reversed OPINION: [Bland, J.](#)
- TRIAL COURT: 400th D/C; Hon.
- LAWYERS: [Carmen Roe](#) (Defense); [John Harity](#) & [Gail McConnell](#) (State)

 **207 Trial Courts / Jurisdiction (Transfer of Juveniles)**: Appellant was born on July 11, 1992. On or about August 29, 2008, then 16 years old, he sexually assaulted a 12 year old E.W. Three weeks later, E.W. identified Appellant as her assailant and reported the incident to her mother, who in turn reported this information to the police. Three days later, while Appellant was still sixteen, Detective M. Cox began to investigate E.W.'s complaint. Almost two years' later, on July 22, 2010, Detective Cox forwarded Appellant's case to the district attorney's office, believing Appellant to be seventeen years old. Appellant, however, had turned eighteen eleven days earlier. In delaying forwarding the charges, Cox testified that she relied on an internal police report that mistakenly listed Appellant's birthday as July 11, 1993, making him appear one year younger than his actual age. CPS records in the police file contained Appellant's correct date of birth. Cox also testified that she had a heavy caseload of 468 cases at the time. On September 8, 2010, the juvenile court ordered that Appellant be taken into custody, and then ordered his conditional release a few days later. More than a year later, on August 17, 2011, the State filed a petition for a discretionary transfer of the case from the juvenile court to a criminal district court. On February 10, 2012, the juvenile court transferred the case, concluding that, for a reason beyond the control of the State, it was not practicable to proceed in juvenile court before Appellant's eighteenth birthday. Appellant subsequently pled guilty to aggravated sexual assault of a child pursuant to a plea bargain; the criminal district court deferred adjudication and placed Appellant on five years' community supervision. On appeal, Appellant contends that the juvenile court improperly transferred the case to the criminal district court because the State failed to show that, for a reason beyond the control of the State, it was not practicable to proceed in juvenile court before Appellant's eighteenth birthday.

Holding: [The] State contends that an investigative delay, stemming from Detective Cox's large caseload and mistake as to [Appellant]'s age, are reasons beyond the control of the State. The State concedes, however, that the offense was promptly reported and that [Appellant] had been identified as the perpetrator within days after the offense was committed while he was still a juvenile and well short of his seventeenth birthday. The correct birthdate was evident in other police records. The State did not trace its error in the internal offense report to any outside source -- Detective Cox testified that the report would have been created internally by

an administrative assistant. The record demonstrates that it was the State's clerical error, coupled with its lengthy delay -- unaided by any outside event -- which caused the case to fall outside the juvenile court's jurisdiction. The State did not adduce proof that it could not have proceeded in juvenile court for reasons beyond its control.

Ed Note: The Court of Appeals rejected the State's argument that any error in transferring the case to a criminal district court was harmless.