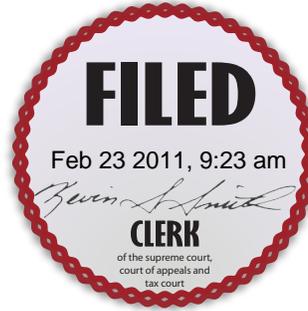


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

M.C.,)
)
Appellant/Respondent,)
)
vs.) No. 49A02-1007-JV-843
)
STATE OF INDIANA,)
)
Appellee/Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
The Honorable Danielle P. Gaughan, Judge *Pro Tempore*
The Honorable Scott B. Stowers, Magistrate
Cause No. 49D09-0911-JD-3823

February 23, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant/Respondent M.C. appeals following the juvenile court's determination that he committed a delinquent act, specifically, Robbery,¹ a Class B felony if committed by an adult. M.C. contends that the evidence is insufficient to support the trial court's true finding. We affirm.

FACTS AND PROCEDURAL HISTORY

On November 28, 2009, Circle City Pizza employee, Christopher Foster, received a delivery order for two pizzas and a 2-liter bottle of orange pop. When Foster arrived at the address for the delivery, he met an individual who was later identified as P.B. on the porch. P.B. was wearing a puffy brown coat with fur around the inside of the hood. P.B. asked Foster how much the order cost. As Foster looked on the delivery slip to determine the cost, two individuals who were later identified as M.C. and D.Y. approached Foster from behind and ordered him to "get on the ground." Tr. p. 29. Foster set the pizzas and the 2-liter down and complied with the order. While Foster was lying on the ground, the individuals rummaged through his pockets, taking \$27.00 in cash from Foster. The individuals ordered Foster to get up, placed a gun at his back, and ordered him to walk to his vehicle. They forced Foster into the passenger seat of his vehicle as they rummaged through his vehicle. They took an iPod from the center console. They then ordered Foster to leave. Foster complied and immediately notified the police.

A few minutes later, Officer Jeffery Krider noticed three individuals who matched the descriptions given to police by Foster standing a few blocks from the site of the robbery.

¹ Ind. Code § 35-42-5-1 (2009).

Officer Krider observed that two of the individuals, including the individual wearing a brown puffy coat, were standing on the northeast corner of 38th Street and Park and the other was standing on the northwest corner of 38th Street and Park. Officer Krider further observed that one of the individuals standing on the northeast corner was holding a 2-liter bottle of orange pop. Upon noticing Officer Krider, all three individuals began walking, parallel to one another, northbound. The individuals' mannerisms and behaviors led Officer Krider to "think they were together." Tr. p. 48.

Officer Krider approached the three individuals and identified them as M.C., D.Y., and P.B. Officer Krider confiscated an iPod, which was later identified as belonging to Foster, and \$27 in cash from M.C., D.Y., and P.B. Officer Krider also found a handgun on the ground at the spot where he first noticed D.Y. and P.B. P.B. subsequently told investigating detective Brian Schemenaur that M.C., D.Y., and another individual named K.R. "bum rushed the pizza delivery guy." Tr. p. 67.

On November 30, 2009, the State filed a delinquency petition alleging that M.C. was a delinquent child for committing an act that would be Class B felony robbery if committed by an adult. Following a dispositional hearing, the trial court entered a true finding and found that M.C. was a delinquent child after determining that he had committed what would be Class B felony robbery if committed by an adult. M.C. was placed on probation, including electronic monitoring and evening reporting, and was ordered to complete Project Life Program and fifty hours of community service.

DISCUSSION AND DECISION

M.C. contends that the evidence is insufficient to support the juvenile court's determination that he committed a delinquent act, namely what would be Class B felony robbery if committed by an adult.

Our standard of review regarding sufficiency of the evidence claims is firmly established. When the State seeks to have a juvenile adjudicated to be a delinquent for committing an act that would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. On appeal, this Court does not reweigh the evidence nor judge the credibility of witnesses, but instead looks to the evidence most favorable to the [adjudication] and to all the reasonable inferences to be drawn therefrom. In other words, we will affirm the [adjudication] if the evidence admitted at trial contains adequate probative value from which the [trier of fact] could infer guilt beyond a reasonable doubt. Circumstantial evidence is no different than other evidence for this purpose, and standing alone may sufficiently support a[n] [adjudication].

In the Matter of R.L.H. v. State, 738 N.E.2d 312, 315 (Ind. Ct. App. 2000) (citations omitted).

The offense of Class B felony robbery is governed by Indiana Code section 35-42-5-1 which provides as follows:

A person who knowingly or intentionally takes property from another person or from the presence of another person:
(1) by using or threatening the use of force on any person; or
(2) by putting any person in fear;
commits robbery, a Class C felony. However the offense is a Class B felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than a defendant.

Thus, in order to establish that M.C. committed what would be Class B felony robbery if committed by an adult, the State was required to prove that M.C.: (1) knowingly or intentionally (2) took property from the person or presence of Foster (3) by using or threatening the use of force (4) while armed with a deadly weapon, *i.e.*, a handgun. *See Ind.*

Code § 35-42-5-1.

Here, the evidence is sufficient to support the determination that M.C. committed what would be Class B felony robbery if committed by an adult. The record establishes that at approximately 11:15 p.m. on November 28, 2009, individuals who were later identified as M.C. and D.Y. approached Foster from behind while Foster was speaking to P.B. on the porch of a residence at 3844 North Broadway Street in Indianapolis. M.C. and D.Y. ordered Foster to “get on the ground.” Tr. p. 29. While Foster was lying on the ground, M.C. and D.Y. rifled through Foster’s pockets, taking \$27.00 in cash. They held a gun to Foster’s back, ordered him to walk to his vehicle, took an iPod from the front console of his vehicle, and ordered him to leave. Foster immediately reported the incident to the police.

A short time later, Officer Jeffry Krider saw three individuals who matched the description given to police by Foster. Officer Krider noticed that one of the individuals was holding an orange 2-liter bottle that matched the description of the 2-liter that was taken from Foster. Officer Krider approached the three individuals and determined that they were M.C., D.Y., and P.B. Officer Krider collected an iPod, which was later identified as belonging to Foster, and \$27.00 from M.C., D.Y., and P.B. A gun was found on the ground where Officer Krider first saw D.Y. and P.B. standing. In light of these facts, we conclude that the trial court could reasonably infer that M.C. knowingly or intentionally forcefully took property from Foster while armed with a handgun. M.C.’s challenge to the sufficiency of the evidence supporting his delinquent adjudication effectively amounts to an invitation to reweigh the evidence, which we will not do. *See R.L.H.*, 738 N.E.2d at 315.

The judgment of the juvenile court is affirmed.

KIRSCH, J., and CRONE, J., concur.