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**IN THE
COURT OF APPEALS OF INDIANA**

S.T.S,)
)
Appellant-Respondent,)
)
vs.) No. 47A05-1009-JV-558
)
STATE OF INDIANA,)
)
Appellee-Petitioner.)

APPEAL FROM THE LAWRENCE CIRCUIT COURT
The Honorable Andrea K. McCord, Judge
Cause No. 47C01-0912-JD-490

April 21, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

S.T.S. appeals the finding he is a juvenile delinquent for committing an act that would be Class C felony burglary¹ if committed by an adult. Because that finding is supported by the evidence most favorable to the judgment, we affirm.

FACTS AND PROCEDURAL HISTORY

Around 10:50 p.m. on November 23, 2009, four juveniles -- S.T.S., D.B., B.H., and D.J. -- were walking in Mitchell, Indiana. S.T.S. suggested they break into and steal cigarettes from a store that was closed for the night. B.H., D.B., and D.J. stood on corners to watch for approaching cars, while S.T.S. kicked in the door, entered the store, and came back with cartons of cigarettes.

The State alleged S.T.S. was a delinquent for committing an act that would be Class C felony burglary if committed by an adult. The trial court found S.T.S. committed an act that would be Class C felony burglary, adjudicated him a delinquent, and ordered a suspended commitment to the Department of Correction.

DISCUSSION AND DECISION

S.T.S. claims the evidence was insufficient to support his adjudication. “A finding by a juvenile court that a child committed a delinquent act . . . must be based upon proof beyond a reasonable doubt.” Ind. Code § 31-37-14-1. As we review the court’s finding, we neither reweigh the evidence nor assess the credibility of witnesses. *D.H. v. State*, 932 N.E.2d 236, 237-38 (Ind. Ct. App. 2010). Rather, we look at the evidence and reasonable inferences that support the judgment to determine whether a reasonable trier of fact could have found,

¹ Ind. Code § 35-43-2-1.

beyond a reasonable doubt, the juvenile was delinquent. *Id.* at 238.

The State alleged S.T.S. was a delinquent because he “did knowingly break and enter Penny’s Discount Tobacco with the intent to commit the felony of theft therein, thereby committing the offense of Burglary” (App. at 6.) Burglary occurs when a person “breaks and enters the building or structure of another person, with intent to commit a felony in it.” Ind. Code § 35-43-2-1.

S.T.S. asserts the evidence was insufficient because “neither cigarettes themselves, nor photographs of those packages, were introduced into evidence or even brought from the police station to the courthouse.” (Appellant’s Br. at 5.) However, “proof of burglary with the intent to commit theft does not necessitate proof of theft, only proof of intent to commit theft.” *Jones v. State*, 519 N.E.2d 1233, 1235 (Ind. 1988). The State need not prove theft, or any other felony, because “the burglary was completed upon [defendant’s] breaking and entering with *intent* to commit a felony.” *Smith v. State*, 671 N.E.2d 910, 912 (Ind. Ct. App. 1996) (emphasis added).

D.B. testified the four boys planned to steal cigarettes from the store. D.B., D.J., and B.H testified the four boys walked to the store and then three of them kept watch while one of them broke the door and entered the store. These facts are sufficient to demonstrate a breaking and entering of the store with the intent to steal cigarettes. *See Swaynie v. State*, 762 N.E.2d 112, 114 (Ind. 2002) (“The person’s culpability is established at the point of entry regardless of whether the underlying intended felony is ever completed.”).

S.T.S. also claims his adjudication was erroneous because of “significant

contradictions in the testimony of the State’s witnesses.” (Appellant’s Br. at 5.) At the fact-finding hearing, the teens gave conflicting testimony about who kicked in the door, entered the store, and brought out the cigarettes.² As we have said many times before: “Any inconsistencies in . . . testimony were for the juvenile court to resolve, and it did so in favor of [finding delinquency]. [Appellant]’s argument is an invitation to reweigh the evidence, one which we decline.” *C.T. v. State*, 939 N.E.2d 626, 628-29 (Ind. Ct. App. 2010), *trans. denied*. While S.T.S. provided testimony in support of his defense, “the trial court was under no obligation to credit it.” *J.R.T. v. State*, 783 N.E.2d 300, 303 (Ind. Ct. App. 2003), *trans. denied*. The facts most favorable to the adjudication are sufficient to support the court’s decision, and we therefore affirm the judgment of the juvenile court.

Affirmed.

FREIDLANDER, J., and MATHIAS, J., concur.

² Regardless who broke the door and entered the store, the evidence supports the adjudication because a juvenile can be found a delinquent based on accomplice liability. *See B.K.C. v. State*, 781 N.E.2d 1157, 1164 (Ind. Ct. App. 2003) (holding evidence supported finding teen was a delinquent based on accomplice liability to adult’s robbery of a restaurant). Thus, the validity of S.T.S.’s adjudication does not depend on which juvenile kicked open the locked door and entered the store. *See id.*