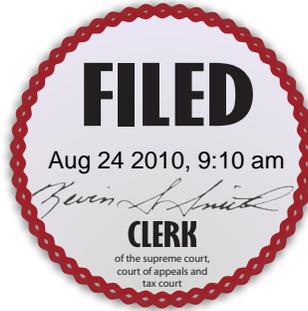


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

B.W.,)
)
Appellant-Defendant,)
)
vs.) No. 49A02-1001-JV-82
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT, JUVENILE DIVISION
The Honorable Marilyn A. Moores, Judge
The Honorable Geoffrey A. Gaither, Magistrate
Cause No. 49D09-0910-JD-3228

August 24, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

B.W., a juvenile, appeals from his adjudication for what would be forgery¹ and theft² if committed by an adult. B.W. raises the following issue for our review: whether the evidence is sufficient to sustain his adjudication.

We affirm.

FACTS AND PROCEDURAL HISTORY

On June 15, 2009, B.W. entered Ole McDonald's Cafe in Acton, Indiana and asked the cashier, Brittany Anderson, to make change for a twenty dollar bill. Anderson gave B.W. either two ten dollar bills or a ten dollar bill and two five dollar bills. B.W. then left with the money and walked across the street to a grocery store where he gave some money to an adult to buy a pack of cigarettes. Anderson thought it was curious that B.W. would get change from the restaurant and then walk across the street to a grocery store. She looked at the twenty dollar bill and discovered that it was a one dollar bill with the corners from a twenty dollar bill taped to it.

After making this discovery, Anderson went to Charlie McDonald, the owner of the restaurant, explained what had happened, and pointed out B.W. across the street. McDonald went across the street to confront B.W., but B.W. fled on his bike. McDonald pursued B.W. in his truck, ultimately stopping B.W. in a nearby park. McDonald showed B.W. the counterfeit bill and asked B.W. to return the change he had obtained from the restaurant. B.W. again fled.

¹ See Ind. Code § 35-43-5-2.

² See Ind. Code § 35-43-4-2.

B.W.'s mother brought him back to the restaurant later that day, called the police, and paid McDonald twenty dollars. When the officer arrived, he observed that B.W. had glassy, bloodshot eyes, slurred speech, and was staggering from side to side. B.W.'s mother was screaming "I know you're high", and B.W. admitted that he was. *Tr.* at 23. The officers took B.W. into custody and collected the twenty dollar bill as evidence.

At the fact-finding hearing, B.W. admitted that he had given the counterfeit bill to Anderson at the restaurant, but claimed that he did not know it was counterfeit. He further testified that he had taken the money from his grandmother's desk drawer at her business. B.W.'s grandmother testified that she had accidentally attempted to purchase fast food with the money, but then used other funds to pay for the food when the cashier noticed the money was counterfeit.

The juvenile court entered a true finding that B.W. had committed what would be the offenses of forgery and theft if committed by an adult. The juvenile court did not find true that B.W. had committed the offense of public intoxication if committed by an adult. B.W. was placed on probation for a period of four months ending on May 4, 2010. B.W. now appeals.

DISCUSSION AND DECISION

When reviewing the sufficiency of the evidence with respect to juvenile adjudications, we do not reweigh the evidence or judge the credibility of witnesses. *K.D. v. State*, 754 N.E.2d 36, 38 (Ind. Ct. App. 2001). The State must prove beyond a reasonable doubt that the juvenile committed the charged offense. *Id.* We examine only the evidence most favorable

to the judgment along with all reasonable inferences to be drawn therefrom. *Id.* at 38-39. We will affirm if there exists substantive evidence of probative value to establish every material element of the offense. *Id.* at 39. Further, it is the function of the trier of fact to resolve conflicts in testimony and to determine the weight of the evidence and the credibility of the witnesses. *Id.*

In order to establish that B.W. had committed the offense of theft if committed by an adult, the State was required to show that B.W. knowingly or intentionally exerted unauthorized control over the property of another person with the intent to deprive the owner of its value or use. Ind. Code § 35-43-4-2. In order to establish that B.W. had committed the offense of forgery if committed by an adult, the State was required to show that B.W. had, with the intent to defraud, made, uttered, or possessed an instrument in such a manner that it purports to have been made by another person. Ind. Code § 35-43-5-2. B.W.'s challenge here on appeal is to the sufficiency of the evidence of the element of knowledge or intent with respect to each offense.

Where the evidence of guilt is essentially circumstantial, the question for the reviewing court is whether reasonable minds could reach the inferences drawn by the trier of fact. *Whitney v. State*, 726 N.E.2d 823, 825 (Ind. Ct. App. 2000). We need not determine if the circumstantial evidence is capable of overcoming every reasonable hypothesis of innocence, but whether the inferences may be reasonably drawn from that evidence which support the conviction, or as here, the adjudication. *See Bustamante v. State*, 557 N.E.2d 1313, 1318 (Ind. 1990) (in the context of a conviction).

Here, the evidence, albeit circumstantial, showed that when B.W. asked Anderson for change for the twenty dollar bill, he knew it was counterfeit. B.W. presented the bill, took the change from the cashier, hesitated for a moment before leaving, then walked across the street to a grocery store to have an adult purchase cigarettes for him. When McDonald confronted B.W., he fled on two occasions. The corners of the bill were taped with corners from a genuine twenty dollar bill, the image of President George Washington was unobstructed on the bill, and it read “One Dollar” across the bottom of the bill. From this evidence, we conclude that the juvenile court could reasonably infer that B.W. knowingly intended to exchange a counterfeit bill for twenty dollars worth of currency, thus depriving Ole McDonald’s Cafe of twenty dollars. Given our deferential standard of review, we affirm the adjudication.

Affirmed.

RILEY, J., and BAILEY, J., concur.