**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.**

ATTORNEY FOR APPELLANT:

**CHRIS P. FRAZIER**
Marion County Public Defender
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**GREGORY F. ZOELLER**
Attorney General of Indiana

**GARY R. ROM**
Deputy Attorney General
Indianapolis, Indiana

FILED
Sep 22 2011, 10:03 am
CLERK
of the supreme court, court of appeals and tax court

# IN THE
# COURT OF APPEALS OF INDIANA

| | | |
|---|---|---|
| D.M., | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 49A02-1102-JV-216 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Gary Chavers, Judge Pro Tem
The Honorable Geoffrey Gaither, Magistrate
Cause No. 49D09-1012-JD-3354

**September 22, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

D.M. appeals his adjudication as a delinquent child for perpetrating acts that, if committed by an adult, would constitute class B felony robbery and dangerous possession of a firearm, a class A misdemeanor. D.M. presents the following restated issue for review: Did the State present sufficient evidence to support the true findings?

We affirm.

The facts favorable to the adjudication are that on the evening of November 30, 2010, fourteen-year-old D.M. borrowed T.H.'s cell phone to call Papa John's to order pizza. The delivery person, Miranda Cooper, had difficulty finding the delivery location, so Cooper called and D.M. gave her directions to the apartment. D.M. and another boy, both wearing hoods, attempted to pay with a $50 bill, which Cooper could not accept. After the juveniles went in and out of the apartment several times to look for smaller bills and were unsuccessful, Cooper began to leave. The boys came out again, and D.M. then pointed a gun at Cooper and demanded the pizzas. Cooper immediately handed over the pizzas to the other boy and left, calling her boss on the way back to the store.

T.H. saw the robbery in progress and, after obtaining his jacket from D.M., went home and tearfully reported to his mother and father what he had witnessed. T.H.'s father called the number on his son's cell phone to investigate further. Cooper, who was back at the store talking with police, answered and then handed her phone to one of the responding officers, Detective John Green. That evening, Detective Green went to T.H.'s home and spoke with him. T.H. reported that he observed a juvenile he knew as Lil Road rob the delivery person at gunpoint. Detective Green also went to the delivery location and discovered it was a vacant apartment that had been broken into.

The following day, after learning information from her daughter and observing certain behavior from her son, D.M.'s mother asked her husband to check the side of the house while she was out with the kids. He found a handgun inside a barbecue grill on the side of the house. D.M.'s mother called the police and reported that her son had been involved in a robbery and that she had possession of the gun.

After obtaining the handgun from D.M.'s home, Detective Green went to speak with T.H. again. T.H. instantly identified a picture of D.M., indicating this was the person he knew as Lil Road. Further, at the denial hearing, Cooper testified that the gun recovered from D.M.'s home looked similar to the one used in the robbery.

On December 2, 2010, the State filed a delinquency petition alleging that D.M. was a delinquent child for committing acts that, if he were an adult, would constitute class B felony robbery, class A misdemeanor carrying a handgun without a license, and class A misdemeanor dangerous possession of a firearm. The denial hearing was held on January 3, 2011, and true findings were entered against D.M. on the first and third counts. D.M. appeals his adjudication on the basis of insufficient evidence.

Our standard of review in this regard is well settled.

> 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 that crime beyond a reasonable doubt. Upon review, we apply the same sufficiency standard used in criminal cases. When reviewing the sufficiency of evidence, we do not reweigh the evidence or judge the credibility of witnesses. Instead we look to the evidence of probative value and the reasonable inferences that support the determination.

*A.E.B. v. State*, 756 N.E.2d 536, 540 (Ind. Ct. App. 2001) (citations omitted). Further, the uncorroborated testimony of a single witness can provide sufficient evidence. *See McCarthy*

*v. State*, 749 N.E.2d 528 (Ind. 2001).

In the instant case, D.M. seizes on the fact that Cooper, the victim, could not identify the juveniles involved in the robbery, nor could the gun recovered from outside D.M.'s home be "definitively" identified as the one used in the robbery. *Appellant's Brief* at 9. D.M. observes further that, at the hearing, T.H. denied Detective Green's testimony regarding T.H.'s identification of D.M. as the gunman. T.H. testified that although D.M. used the phone to order and was one of the two boys present during the robbery, he could not tell if D.M. was the one actually holding the gun. Finally, D.M. argues that T.H. had a "motive to deflect potential blame" because it was his phone that had been used to initiate the delivery. *Id*. at 10.

In sum, D.M.'s argument boils down to: "in this case the only testimony which could place D.M. at the scene of the robbery had multiple problems associated with it; thus, its reliability is highly questionable." *Id*. at 11. We reject D.M.'s invitation to reweigh the evidence and judge the credibility of the witnesses. The State presented ample evidence to support the true findings.

Judgment affirmed.

DARDEN, J., and VAIDIK, J., concur.