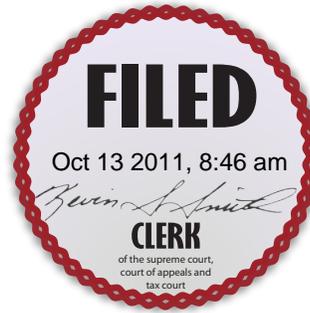


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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D. L., )  
 )  
Appellant-Respondent, )  
 )  
vs. ) No. 49A02-1101-JV-109  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Petitioner. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Scott B. Stowers, Magistrate  
Cause No. 49D09-1011-JD-3305

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**October 13, 2011**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Judge**

Appellant-respondent D.L. appeals his adjudication as a juvenile delinquent for committing acts that would have been burglary and theft if committed by an adult. Although D.L. does not contend that the State failed to prove the elements of the offenses, he argues that the delinquency finding must be set aside because the victims' identification of him as one of the perpetrators was deficient. Moreover, D.L. points out that there was no fingerprint evidence or other forensic evidence that linked him to the offenses. Finding the evidence sufficient, we affirm.

### FACTS

On Thanksgiving night in 2010, Felipe Romero and his family (collectively, the Romeros) left their Indianapolis residence to have dinner with some friends. The Romeros' doors and windows were locked when they left the house.

When the Romeros were on their way home at approximately 11:30 p.m., Felipe noticed a male walking out of his house. The individual turned back toward the residence and apparently said something to two other people who were running from the side of the house. Both of the Romeros recognized fourteen-year-old D.L., who lived in the neighborhood, as one of the individuals who was running from the residence.

Felipe began to chase D.L. in his truck. At some point, D.L. ran in front of the truck and stopped. D.L. placed his hands on the hood as if he were going to push the truck back. The Romeros saw D.L. clearly in the truck's headlights. Felipe then observed D.L. race across the yard, jump the fence, and proceed through the neighborhood.

Felipe called the police and reported the matter, at which time he gave the dispatcher D.L.'s name, address, and description. Felipe then drove to D.L.'s house and waited for the police. Felipe spoke with the officers briefly and returned home. He immediately discovered that a window had been broken out of the house. Once inside, Felipe noticed that a television, two laptop computers, a camcorder, some jewelry, and other items, had been stolen.

A short time later, when Felipe and Officer Erin Ringham of the Indianapolis Metropolitan Police Department (IMPD) were talking in front of the Romeros' house, they observed D.L. walking across Fletcher Avenue. The police apprehended D.L. and took him into custody.

On November 27, 2010, the State filed delinquency charges against D.L., alleging that he committed delinquent acts that would have been class B felony burglary and class D felony theft, had they been committed by an adult. D.L. denied the allegations and filed a notice of alibi on December 13, 2010. D.L. claimed that he was at a friend's house most of the evening and left only for a few minutes to purchase cigarettes at a nearby gas station.

At the dispositional hearing, two witnesses testified that D.L. and others "hung out" at a friend's house all evening. Tr. p. 36, 46-47. However, the Romeros testified that D.L. was one of the individuals they saw running from their house. Following the hearing, the juvenile court determined that the allegations of delinquency were true and entered its decree on January 14, 2011. D.L. now appeals.

## DISCUSSION AND DECISION

In addressing D.L.'s challenge to the sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Fields v. State, 679 N.E.2d 898, 900 (Ind. 1997). The State is required to prove, beyond a reasonable doubt, that the juvenile committed the charged act. Moran v. State, 622 N.E.2d 157, 158 (Ind. 1993). We consider only the evidence most favorable to the judgment and the reasonable inferences therefrom and will affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. Blanche v. State, 690 N.E.2d 709, 712 (Ind. 1998). A victim's testimony is ordinarily sufficient to sustain a conviction. Carter v. State, 754 N.E.2d 877, 880 (Ind. 2001).

The State may disprove the alibi defense by proving its own case-in-chief beyond a reasonable doubt. Thompson v. State, 728 N.E.2d 155, 159 (Ind. 2000). And the fact finder may choose to disbelieve alibi witnesses if the State's evidence renders such disbelief reasonable. Stephenson v. State, 742 N.E.2d 464, 499 (Ind. 2001).

In this case, it was established that the Romeros knew D.L. from their neighborhood. Tr. p. 8-10, 10, 16-17, 21, 25-26. Felipe and his wife clearly identified D.L. as one of the individuals they saw running from their house along with two others. Id. at 7-9. The Romeros also testified that it was D.L. who placed his hands on the hood of their truck. Id.

The juvenile court, as the fact finder, obviously chose to disbelieve D.L.'s alibi defense, which it was entitled to do. See Stephenson, 742 N.E.2d at 499 (holding that

where conflicting evidence is presented, the fact finder can reject the defendant's version and believe the State's evidence instead). Moreover, because a victim's testimony is generally sufficient to support a finding of delinquency, we reject D.L.'s contention that the absence of fingerprints or other forensic evidence demonstrates a lack of D.L.'s guilt. In short, the Romeros' eyewitness identification testimony of D.L. as one of the individuals who fled their house that had been burglarized is sufficient evidence from which the trier of fact could find D.L. guilty.

The judgment of the juvenile court is affirmed.

KIRSCH, J., and BROWN, J., concur.