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IN THE
COURT OF APPEALS OF INDIANA

K.D.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0905-JV-472
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn Moores, Judge
The Honorable Scott Stowers, Magistrate
Cause No. 49D09-0902-JD-470

October 21, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

K.D. was adjudicated a delinquent child for committing theft, which would be a Class D felony if committed by an adult. K.D. appeals and argues that the evidence is insufficient to support the adjudication. We affirm.

Facts and Procedural History

On December 6, 2008, fourteen-year-old K.D. was at E.M.'s house playing video games in E.M.'s basement. E.M. had a portable Playstation video game device ("Playstation") located on a table in the basement. While the boys were playing E.M.'s Xbox game system, E.M.'s grandmother asked E.M. to bring the laundry up to the second floor of the house so that she could fold clothes. As E.M. returned to the basement, he heard the garage door open and close. K.D. was no longer in the basement, and E.M.'s Playstation was gone. The only other individuals in the house were E.M.'s siblings who were upstairs with E.M.'s grandmother when K.D. left the house.

On February 25, 2009, the State filed a petition alleging that K.D. is a delinquent child for committing theft, which would be a Class D felony if committed by an adult. A denial hearing was held on April 17, 2009. Following the hearing, the juvenile court concluded that K.D. committed the alleged offense. The court then placed K.D. on probation. K.D. now appeals.

Discussion and Decision

K.D. argues that the evidence is insufficient to support the juvenile delinquency adjudication. When the State seeks to have a juvenile adjudicated as a delinquent child for committing an act which would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. J.S. v. State, 843 N.E.2d

1013, 1016 (Ind. Ct. App. 2006), trans. denied. In reviewing a juvenile adjudication, this court will consider only the evidence and reasonable inferences supporting the judgment and will neither reweigh evidence nor judge the credibility of the witnesses. Id. If there is substantial evidence of probative value from which a reasonable trier of fact could conclude that the juvenile was guilty beyond a reasonable doubt, we will affirm the adjudication. Id.

To prove that K.D. committed theft, the State was required to prove that K.D. knowingly or intentionally exerted unauthorized control over E.M.'s Playstation, with the intent to deprive E.M. of any part of its value or use. See Ind. Code § 35-43-4-2 (2004 & Supp. 2009); Appellant's App. p. 10. K.D. argues that the State only proved that he was present at the time E.M.'s Playstation disappeared, and that evidence is insufficient to support the adjudication, particularly in light of the fact that the Playstation was never found.

First, we observe that circumstantial evidence alone may support a theft conviction if the evidence supports a reasonable inference of guilt. Hayworth v. State, 798 N.E.2d 503, 507 (Ind. Ct. App. 2003). The juvenile court noted that the evidence against K.D. was "highly circumstantial." Tr. p. 34.

While E.M. took the laundry upstairs to his grandmother, K.D. was the only individual in the basement. K.D. left E.M.'s house before E.M. could return to the basement. A few minutes after K.D. left the house, E.M. discovered that his Playstation was gone. The juvenile court found E.M.'s and his grandmother's testimony to be

credible, and concluded that State proved that K.D. committed theft beyond a reasonable doubt. Tr. pp. 34-35.

K.D. was alone in the basement when the Playstation was taken, and he left E.M.'s house without announcing his departure before E.M. could return to the basement. From this evidence, a reasonable trier of fact could conclude that the K.D. was guilty beyond a reasonable doubt. We therefore conclude that the evidence is sufficient to support the trial court's determination that K.D. committed theft, a Class D felony if committed by an adult, and we affirm K.D.'s delinquency adjudication.

Affirmed.

DARDEN, J., and ROBB, J., concur.