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IN THE
COURT OF APPEALS OF INDIANA

M. J.-W.,	)	
	)	
Appellant-Respondent,	)	
	)	
vs.	)	No.49A02-0906-JV-535
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Petitioner.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn Moores, Judge
The Honorable Scott Stowers, Magistrate
Cause No. 49D09-0811-JD-3574

December 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

M.J.-W. appeals the juvenile court's dispositional order adjudicating her to be a delinquent child for committing theft, a class D felony if committed by an adult. The sole issue presented for our review is whether there is sufficient evidence to support the juvenile court's adjudication. We affirm.

Facts and Procedural History

The facts most favorable to the adjudication indicate that on October 11, 2008, Cory Honeycutt was working as an asset protection associate at a Wal-Mart store in Marion County. Tr. at 3. Honeycutt began to watch fifteen-year-old M.J.-W., her twenty-year-old cousin Anastasia Jacobs, and one other girl, when he noticed that they seemed to be selecting various types of merchandise throughout the store without regard to price. Honeycutt, who was dressed in plain clothes, watched the girls for approximately one hour. Honeycutt noticed that the girls would remove items from the store shelves, place the items inside of a bag that was in their cart, and then Jacobs would cover the bag with a shirt. While Jacobs pushed the cart, it appeared that M.J.-W. acted as a lookout. Honeycutt observed M.J.-W. remove false eyelashes from the store shelf and place them inside of the cart. Honeycutt observed M.J.-W. place items into the cart at least three times during his surveillance. The girls eventually pushed the cart out of the Wal-Mart store without purchasing the items in the bag that was still located in the cart. Honeycutt stopped the girls in the parking lot. The bag in their cart contained twenty-three items that were taken from the store.

The State filed a delinquency petition alleging that M.J.-W. committed an act that would be class D felony theft if committed by an adult. Following a hearing held on March 12, 2009, the juvenile court entered a true finding of delinquency on the theft charge. This appeal ensued.

Discussion and Decision

When reviewing the sufficiency of the evidence with respect to juvenile adjudications, we use the same standard as in a criminal proceeding. *H.J. v. State*, 746 N.E.2d 400, 402 (Ind. Ct. App. 2001). We do not reweigh the evidence or judge the credibility of witnesses. *M.Q.M. v. State*, 840 N.E.2d 441, 444 (Ind. Ct. App. 2006). Rather, we look to the evidence and the reasonable inferences therefrom that support the true finding. *D.B. v. State*, 842 N.E.2d 399, 401-02 (Ind. Ct. App. 2006). We will affirm the adjudication if evidence of probative value exists from which the factfinder could find the juvenile guilty beyond a reasonable doubt. *Id*. In other words, we will affirm the juvenile court's finding of delinquency unless it may be concluded that no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt. *Id*. at 402.

Here, the record supports the juvenile court's true finding that M.J.-W. committed theft. Indiana Code Section 35-43-4-2(a) provides that "[a] person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive that person of any part of its value or use, commits theft, a Class D felony." "A person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to do so." Ind. Code § 35-41-2-2(a). "A person engages in conduct

'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." Ind. Code § 35-41-2-2(b). Intent is a mental state and, absent an admission, can be inferred from a person's conduct and the natural consequences that might be expected from that conduct. *M.Q.M.*, 840 N.E.2d at 446. Similarly, the "knowingly" element of an offense may be inferred from the surrounding circumstances. *M.S. v. State*, 889 N.E.2d 900, 902 (Ind. Ct. App. 2008), *trans. denied*.

Honeycutt testified that he observed the girls remove various items from the store shelves, place them inside a bag that was in their cart, and then cover the bag with a shirt. Specifically, Honeycutt stated that he saw M.J.-W. remove false eyelashes from a store shelf and place them inside the cart. Honeycutt further testified that it appeared to him that M.J.-W. acted as a lookout for the other girls at times when she was not placing items inside the cart. The record shows that the girls walked out of Wal-Mart with the bag still in their cart and without paying for the items. This evidence is sufficient to establish that M.J.-W. knowingly or intentionally exerted unauthorized control over the property of Wal-Mart with intent to deprive Wal-Mart of its value or use.

Moreover, the record supports the trial court's true finding that M.J.-W. committed theft pursuant to the theory of accomplice liability. An individual who aids, induces, or causes the commission of a crime is equally as culpable as the person who actually commits the offense. *See* Ind. Code § 35-41-2-4. The accomplice liability statute does not set forth a separate crime, but instead provides a separate basis of liability for the crime that is charged. *Brooks v. State*, 895 N.E.2d 130, 133 (Ind. Ct. App. 2008). Thus, a defendant may be

convicted on evidence of aiding in a crime even though the State charged the defendant as the principal. *Suggs v. State*, 883 N.E.2d 1188, 1192 (Ind. Ct. App. 2008). '"While the defendant's presence during the commission of the crime or failure to oppose the crime are, by themselves, insufficient to establish accomplice liability, they may be considered along with other facts and circumstances tending to show participation.'" *Brooks*, 895 N.E.2d at 133 (quoting *Hodge v. State*, 688 N.E.2d 1246, 1248 (Ind. 1997)).

The facts and circumstances presented here establish that M.J.-W., her cousin, and the other girl acted together in depriving Wal-Mart of the value and use of twenty-three items. They took turns selecting items and placing them in the cart. When one of them was selecting items, the others were acting as lookouts. Despite M.J.-W.'s argument to the contrary, she was not merely present during the theft, she was an active participant in the theft. While M.J.-W. asserts that it was only Jacobs who exerted unauthorized control over the items and that she was unaware that Jacobs was stealing the items, M.J.-W. merely invites us to reweigh the evidence and reassess witness credibility, an invitation that we must decline. The State presented sufficient evidence to support the juvenile court's true finding of delinquency.

Affirmed.

RILEY, J., and VAIDIK, J., concur.