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**IN THE
COURT OF APPEALS OF INDIANA**

C.B.,)
)
Appellant-Respondent,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Petitioner.)

No. 49A02-1009-JV-1089

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Gary Chavers, Judge Pro Tempore
The Honorable Scott B. Stowers, Magistrate
Cause No. 49D09-1007-JD-2060

MAY 2, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

STATEMENT OF THE CASE

Respondent-Appellant C.B. appeals his delinquency adjudication for committing acts that would constitute robbery, a Class B felony, Indiana Code section 35-42-5-1 (1984), and battery, a Class A misdemeanor, Indiana Code section 35-42-2-1 (2009), if committed by an adult. We affirm.

ISSUE

C.B. raises one issue, which we restate as: whether the evidence is sufficient to support the trial court's judgment.

FACTS AND PROCEDURAL HISTORY

On July 24, 2010, brothers B.H. and G.W.¹ attended an auto race in Indianapolis. That evening, they were walking through a parking lot near the racetrack when C.B. and two other young men ran up to them. One of the assailants struck B.H. on the back of the head. B.H. was hit several times and was pulled to the ground. Another assailant struck G.W., who ran for help. As B.H. lay on the ground, C.B. took B.H.'s portable game system out of B.H.'s pocket. C.B. and the other two young men left. B.H. was taken to the hospital and diagnosed with a mild concussion.

Meanwhile, G.W. located a police officer. G.W. and the police officer walked through the area to look for the assailants. G.W. saw C.B. and another person walking together and identified them as two of the people who had attacked him and B.H. The police patted down C.B. and his companion and found B.H.'s portable game system in the companion's pocket.

¹ B.H. and G.W. were minors when these crimes occurred.

The State charged C.B. with committing acts that would have constituted robbery and two counts of battery if committed by an adult. After an evidentiary hearing, the trial court entered a true finding as to the robbery and one of the counts of battery. The trial court issued a not true finding as to the other count of battery, determining that it merged into the robbery finding. C.B. now appeals.

DISCUSSION AND DECISION

In assessing challenges to the sufficiency of the evidence supporting a finding of delinquency, we will neither reweigh the evidence nor assess witness credibility, looking instead to the evidence and reasonable inferences therefrom that support the judgment. *D.H. v. State*, 932 N.E.2d 236, 237-38 (Ind. Ct. App. 2010). If there is evidence of probative value from which a reasonable factfinder could find the respondent delinquent beyond a reasonable doubt, then we will affirm. *Id.* at 238.

To support its charge that C.B. committed an act that would have been robbery had it been committed by an adult, the State was required to prove that C.B. knowingly or intentionally took property from B.H. or from the presence of B.H. by using or threatening the use of force, which resulted in bodily injury to B.H. Ind. Code § 35-42-5-1 (1984). To support its charge that C.B. committed an act that would have been battery had it been committed by an adult, the State was required to prove that C.B. knowingly or intentionally touched G.W. in a rude, insolent or angry manner resulting in bodily injury. Ind. Code § 35-42-2-1 (2009). In addition, the State alleged that C.B. was responsible for these acts under the accomplice liability statute, Indiana Code section 35-41-2-4 (1977). That statute provides, in relevant part, “[a] person who knowingly or intentionally aids,

induces, or causes another person to commit an offense commits that offense” I.C. § 35-41-2-4. Therefore, the State was obligated to prove that C.B. knowingly or intentionally aided, induced, or caused another person to commit acts that would constitute robbery and battery if committed by an adult.

In determining whether a person aided another in the commission of a crime, our Supreme Court has considered the following four factors: (1) presence at the scene of the crime; (2) companionship with another engaged in criminal activity; (3) failure to oppose the crime; and (4) a defendant’s conduct before, during, and after the occurrence of the crime. *Garland v. State*, 788 N.E.2d 425, 431 (Ind. 2003).

In this case, C.B. argues that he is not responsible for the robbery and battery because there is no evidence that he hit either of the victims. We disagree. C.B. was present for, and participated in, the attack on B.H. and G.W. He ran up to the victims with the other assailants. Instead of opposing the crimes, C.B. took B.H.’s portable game system from B.H. as he lay on the ground. Furthermore, shortly after the battery and robbery, G.W. and a police officer found C.B. walking with another of the assailants, talking with him “[a]s if they were acquaintances [or] friends” Tr. p. 21. Finally, C.B.’s companion had B.H.’s portable game system. From this evidence, a reasonable trier of fact could have determined beyond a reasonable doubt that C.B. was an accomplice to acts that would have constituted robbery and battery if committed by an adult. *See B.K.C. v. State*, 781 N.E.2d 1157, 1165 (Ind. Ct. App. 2003) (affirming a delinquency adjudication for an act that would be robbery if committed by an adult where the juvenile was present for the robbery, did not oppose the crime, ran and hid with his

companion at one point during the robbery, and ordered the victim to open a door before leaving with his companion).

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

Affirmed.

BARNES, J., and BRADFORD, J., concur.