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**IN THE
COURT OF APPEALS OF INDIANA**

C.H.,)
)
Appellant-Defendant ,)
)
vs.) No. 49A02-0702-JV-168
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
The Honorable Danielle L. Gregory, Magistrate
Cause No. 49D09-0608-JD-003233

December 3, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

C.H. was adjudicated a delinquent child for committing trespass, which would be a Class A misdemeanor if committed by an adult. C.H. appeals and argues that the evidence is insufficient to establish that he committed trespass. We affirm.

Facts and Procedural History

Indianapolis Police Officer Thomas Stout (“Officer Stout”) is also employed as a security guard for Kingsmill Court Apartments. On August 21, 2006, Officer Stout arrested C.H. for trespass after the officer observed C.H. inside the apartment complex. Officer Stout had previously told C.H. that he was not allowed on the property.

On September 5, 2006, the State filed a petition alleging that C.H. was a delinquent child for committing trespass, which would be a Class A misdemeanor if committed by an adult. After a hearing held on December 12, 2006, the trial court found that C.H. had committed criminal trespass. A dispositional order was entered on January 23, 2007, and C.H. was placed on probation.¹ C.H. now appeals. Additional facts will be provided as necessary.

Discussion and Decision

C.H. argues that the evidence is insufficient to support the delinquency adjudication. When the State seeks to have a juvenile adjudicated as a delinquent 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

¹ We note that C.H. failed to include a copy of the dispositional order signed by Judge Marilyn Moores in the record on appeal. Our court confirmed that Judge Moores signed the January 23, 2007 order at issue.

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.

The State was required to establish that C.H., who did not have a contractual interest in Kingsmill Court Apartments, “knowingly or intentionally enter[ed] the real property of another person after having been denied entry by the other person or that person’s agent.” See Ind. Code § 35-43-2-2 (2004). “The belief that one has a right to be on the property of another will defeat the mens rea requirement of the criminal trespass statute if it has a fair and reasonable foundation.” Taylor v. State, 836 N.E.2d 1024, 1028 (Ind. Ct. App. 2005), trans. denied (citing Olsen v. State, 663 N.E.2d 1194, 1196 (Ind. Ct. App. 1996)). “It is for the trier of fact to determine whether the [juvenile] believed that he had a right to be on the property of another and whether that belief had a fair and reasonable foundation.” Id. (citing Myers v. State, 190 Ind. 269, 269, 130 N.E. 116, 117 (1921)).

C.H. was told that he was not allowed on the Kingsmill Court Apartment property. Two days before he was arrested for the instant offense, Officer Stout observed C.H. on the property. Tr. p. 18. Officer Stout reminded C.H. that he was not allowed on the property, but C.H. refused to leave. Officer Stout intended to arrest C.H., but after C.H.’s mother told the officer that she would keep him off the property, the officer released him. Tr. p. 19. Two days later, the officer observed C.H. on the apartment complex property,

and when C.H. saw Officer Stout, he hid behind a bush. The officer then arrested C.H. for trespass.

C.H.'s argument that the State failed to prove that he did not have a right to be on the Kingsmill apartment complex property is merely a request for our court to reweigh the evidence, which we will not do. We conclude that the evidence is sufficient to support the delinquency adjudication.

Affirmed.

NAJAM, J., AND BRADFORD, J., concur.