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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF M.C.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0705-JV-437
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Geoffrey Gaither, Magistrate
Cause No. 49D09-0612-JD-4932

December 10, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

M.C. appeals his adjudication as a delinquent child for committing an act that would be Intimidation as a Class D felony if committed by an adult. Specifically, M.C. contends that the evidence is insufficient to support the juvenile court's true finding. Finding that the evidence is sufficient to support the court's true finding, we affirm the juvenile court's adjudication of M.C. as a delinquent child.

Facts and Procedural History

The facts most favorable to the true finding reveal that in the early morning hours of December 26, 2006, Gary Lyons' automobile was broken into and various items were stolen from inside. Lyons filed a police report and placed a copy of the police report in his automobile. Later that same day, Lyons was standing outside of his home in his yard when M.C. and his brother, R.S., walked by in the street. Thereafter, the three of them got into a heated argument, and M.C. and R.S. admitted, "they broke into [his] car." Tr. p. 16. Additionally, M.C. and R.S. threatened to set fire to his house and car and threatened to kill him. *See id*. at 23. Lyons then called the police. Officer Michael Phillips ("Officer Phillips") of the Indianapolis Police Department responded to the call and went to Lyons' home, spoke with him about the incident, and then located M.C., R.S., and a friend two to three blocks down the street from Lyons' home. Officer Phillips asked the three of them if they had been involved in an argument with Lyons. According to Officer Phillips, M.C. replied "that it was just an argument and that nothing else had happened." *Id*. at 32.

On December 27, 2006, the State filed a delinquency petition alleging that M.C. had committed what would be Intimidation as a Class D felony[1] if he were an adult. A Denial Hearing was held, at which Lyons opined that M.C. and R.S. made these threats because they knew that he had filed a police report regarding the earlier break-in of his automobile. R.S., on the other hand, testified that he and M.C. slept until "around eleven-thirty, twelve o'clock" on the day in question and therefore denied that they had any knowledge that Lyons filed a police report. *Id*. at 36. At the conclusion of the Denial Hearing, the juvenile court found the allegation of delinquency to be true and determined M.C. to be a delinquent child. At his disposition hearing, the juvenile court placed M.C. on probation, with special conditions. M.C. now appeals.

Discussion and Decision

M.C. raises one issue on appeal. He contends that the evidence is insufficient to support the true finding that he committed Intimidation as a Class D felony. In reviewing a claim of insufficient evidence, we neither reweigh the evidence nor assess the credibility of the witnesses. *R.B. v. State*, 839 N.E.2d 1282 (Ind. Ct. App. 2005). Instead, we look to the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Id*. A mere reasonable inference from the evidence supporting a verdict is enough for us to find evidence to be sufficient. *Buckner v. State*, 857 N.E.2d 1011, 1017 (Ind. Ct. App. 2006). We will affirm the conviction if there is probative evidence from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002).

[1] Ind. Code § 35-45-2-1(a)(2), (b)(1)(A).

"When the State seeks to have a juvenile adjudicated to be delinquent for committing an act that would be a crime if committed by an adult, the State must prove every element of that crime beyond a reasonable doubt." *Al-Saud v. State*, 658 N.E.2d 907, 908 (Ind. 1995).

To support the true finding for Intimidation as charged in this case, the State had to prove that M.C. communicated a threat to commit a forcible felony against Lyons, with the intent that Lyons be placed in fear of retaliation for the prior lawful act of reporting an incident to law enforcement. *See* Ind. Code § 35-45-2-1(a)(2), (b)(1)(A). M.C. argues that the State has failed to meet its burden because "[t]here was no evidence to support any threat was made in retaliation for the prior lawful act of reporting an incident to law enforcement." Appellant's Br. p. 5. We disagree.

Here, Lyons testified that M.C. and R.S. admitted to breaking into his automobile and then later threatened to kill him and set fire to his house and car. R.S., on the other hand, testified that both he and M.C. slept until "around eleven-thirty, twelve o'clock" on the day in question and were unaware that Lyons had filed a police report regarding the break-in of his automobile. Tr. p. 36. Additionally, M.C. told Officer Philips that his encounter with Lyons "was just an argument and that nothing else had happened." *Id*. at 32. Credibility is a question for the trier of fact, and the juvenile court believed Lyons. As such, it was reasonable for the court to infer that M.C. and R.S. would not have threatened Lyons unless they were angry that he filed a police report. Moreover, the fact that the threat to set fire to Lyons' automobile was made on the same day that Lyons had contacted the police and placed the police report in his vehicle further supports the

finding that M.C.'s motive was retaliation for reporting the earlier incident to the police. The evidence is sufficient to support the juvenile court's true finding that M.C. committed Intimidation as a Class D felony. We therefore affirm the juvenile court's adjudication of M.C. as a delinquent child.

Affirmed.

SHARPNACK, J., and BARNES, J., concur.