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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

IN RE CHRISTIAN D.	2 CA-JV 2012-0014 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. JV19824401

Honorable Javier Chon-Lopez, Judge

AFFIRMED

Law Office of David J. Polan
By David J. Polan — Tucson
Attorney for Minor

Barbara LaWall, Pima County Attorney
By Amanda Ortiz Moreno — Tucson
Attorneys for State

E C K E R S T R O M, Presiding Judge.

¶1 Christian D. appeals from his delinquency adjudication on two counts of aggravated assault. The juvenile court placed Christian on probation for nine months. He argues the evidence demonstrated he acted in self-defense, and therefore, the court should not have adjudicated him delinquent. *See* A.R.S. §§ 13-205, 13-404, 13-405. He also argues the court erroneously applied A.R.S. § 13-501. For the reasons set forth below, we affirm.

¶2 "In reviewing the juvenile court's adjudication of delinquency, we review the evidence and resolve all reasonable inferences in the light most favorable to upholding its judgment." *In re Jessi W.*, 214 Ariz. 334, ¶ 11, 152 P.3d 1217, 1219 (App. 2007). Jesus, who is Christian's adoptive father and the victim, I.'s, foster father, left fourteen-year-old Christian[1]at home with sixteen-year-old I. on the date of the incident. Jesus estimated that at the time of the incident, I. was "about 6'1", maybe 240 pounds," while Christian was "about 5'4", 96 pounds." Christian and I., who had lived together for seven years, had not fought with each other physically in the past, nor had they been fighting earlier on the day of the incident. However, I. had been involved in "about six" prior incidents of aggressive behavior, including an "assault[]"on Jesus, while Christian had been involved in "maybe . . . two." Jesus testified that I. called him on the day of the incident to report that Christian was using the computer before having completed his

[1]In its answering brief, the state erroneously asserts Christian was sixteen years old at the time of the incident.

chores. Jesus told I. he would be home in "less than five minutes," and he would "handle it" when he returned.

¶3 According to I., he "[t]ook matters on [his] own hands," and told Christian to get off the computer in an "aggressive" tone of voice. After the boys began arguing in the area near the computer, Christian told I. he was going to "get a knife" and stab him. I. followed Christian into the nearby kitchen, and the boys continued arguing. Although I. described the altercation as strictly "verbal" and asserted he never raised his fist at Christian, he did acknowledge that he was "blocking" the entry to the kitchen when Christian stabbed him in the abdomen with the knife. Christian then placed the knife on the counter and walked outside. When asked if it is possible others become scared of him when he is "mad," I. responded, "I guess."

¶4 In contrast, Christian testified that he felt scared and was fearful I. would hurt him when I. approached him at the computer table with his fists positioned as if he was going to hit him and stated, "I'm going to beat the shit out of you." Christian testified that he told I., "If you hit me, I'm going to stab you." After I. hit him "in the arm," Christian walked "fast" into the kitchen and I. "hurr[ied] right behind [him]." According to Christian's own testimony, after he "grabbed the knife," I. "kicked" him in the arm, and Christian then stabbed I.

¶5 Christian's fourteen-year-old brother, T., was in the same room with the computer but was "[p]aying attention to the X-Box" while he listened to the argument. T. testified that he heard I. tell Christian to get off the computer and threaten to hit

Christian. Christian responded in a "scared, but willing-to-do-it type voice," that he would stab I. if I. hit him. According to T., neither of the boys "move[d] in a way that would cause somebody to think that they were going to get hit." T. also testified Christian did not ask for help, a fact Christian did not dispute.

¶6 On appeal, Christian contends the juvenile court should have found he had acted in self-defense by applying the standard of a reasonable juvenile rather than a reasonable adult. Christian asserts he believed his only alternative was to use a knife to protect himself "given the disparity in size between [himself and I.], coupled with I.'s threat, his aggressive nature, and his continuing to come after Christian after Christian had disengaged himself from the confrontation."

¶7 Pursuant to § 13-205(A), justification defenses, which are not affirmative defenses, "describe conduct that, if not justified, would constitute an offense but, if justified, does not constitute criminal or wrongful conduct." If the accused produces evidence of self-defense, the state must establish that the person did not act with justification beyond a reasonable doubt. *Id.*; *State v. King*, 225 Ariz. 87, ¶ 6, 235 P.3d 240, 242 (2010).

¶8 The relevant portion of § 13-404(A) provides that "a person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful physical force." According to § 13-405(A), "[a] person is justified in threatening or using deadly physical force against

another" if justified under § 13-404 and "[w]hen and to the degree a reasonable person would believe" such force "is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly physical force."[2]

¶9 In rejecting Christian's self-defense claim, the juvenile court stated:

> I did some research and had to look, because [Christian is] only 14, . . . justification talks about . . . a reasonable person—so I was concerned. Does it mean a reasonable 14-year-old, or just a reasonable person? And I think [§ 13-]501 kind of answers that, because I think 13-501 is persons under 18 years of age, and it states that the County Attorney may bring a criminal prosecution against a juvenile in the same manner as an adult, if the juvenile is at least 14 years of age at the time the alleged offense is committed and the juvenile is accused of a felony. And I think that's the standard I need to use, not a reasonable 14-year-old, but just a regular, reasonable person. And I think it makes a difference.
>
> But in any case, the reason for finding [Christian] guilty is I think you can't stab somebody if somebody's just punched you; that's assuming he's telling the truth about what occurred . . . . But both of the minors—it's hard to gauge them, because they both admitted to stuff that hurt their credibility, so I assume they were being truthful. But even under [Christian's] own account of what happened, I think . . . [he] cannot use a knife to defend himself. Because it would be different if he was hitting him, you know, many, many times over, and then he uses the knife. But just the way it happened, I don't think he was entitled to use a knife, which could be deadly. That's excessive, more than what justification would allow.

[2]Section 13-105(14), A.R.S., defines deadly physical force as "force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury."

¶10 Although the juvenile court appears to have relied mistakenly on § 13-501, the statute that addresses bringing an adult criminal prosecution against a juvenile, as guidance for the reasonable-person standard in this case, we find this error harmless. A reasonable person standard, "[b]y its very nature, . . . connotes an objective standard of conduct, not a subjective standard." *State v. Oaks*, 209 Ariz. 432, ¶ 9, 104 P.3d 163, 165 (App. 2004). In *Oaks* we noted that "[n]o . . . juvenile standard exists for crimes committed intentionally or knowingly." *Id.* ¶ 14 (holding recklessness need not be determined under juvenile standard in prosecution of minor as adult); *cf. In re William G.*, 192 Ariz. 208, 214, 963 P.2d 287, 293 (App. 1997) (evaluating recklessness under juvenile standard when property damage caused by juvenile riding in shopping cart, but "reserv[ing] judgment on any future case that concerns significantly different activity by juveniles," and excluding inherently dangerous conduct from scope of decision). "The standard [for self-defense] is a reasonable person's belief, not the unreasonable, even if honest, belief of the accused." *State v. Tuzon*, 118 Ariz. 205, 209, 575 P.2d 1231, 1235 (1978).

¶11 Notably, although the reasonable person standard is an objective one, it is also context-specific and requires a court's consideration of the circumstances in the particular matter before the court. *See King*, 225 Ariz. 87, ¶ 12, 235 P.3d at 243. Accordingly, to the extent Christian argues the juvenile court failed to consider the circumstances here in determining whether the reasonable person standard was met, we disagree. The court necessarily had to consider what a similarly situated reasonable

person would have done under the facts presented to determine if Christian's conduct was reasonable.

¶12 In this case, there was reasonable evidence supporting the juvenile court's finding Christian's actions were not justified. Assuming Christian had established by the "slightest evidence" he had acted in self-defense, *State v. Lujan*, 136 Ariz. 102, 104, 664 P.2d 646, 648 (1983), that does not mean he had acted with justification. As the court noted, even accepting Christian's version of the facts, specifically that I. hit him twice and threatened to beat him, Christian nonetheless threatened to stab I. before the boys left the computer area and entered the kitchen, where the knife was located. Christian led the way into the kitchen, picked up a knife, and stabbed I. The boys did not have a history of fighting with each other. Nor did Christian ask for help, despite the fact that T. was nearby and I. was physically larger than Christian.

¶13 The juvenile court was in the best position to weigh the testimony and resolve any conflicts. *See Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, ¶ 4, 100 P.3d 943, 945 (App. 2004). We do not reweigh the evidence, *In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001), but examine de novo "whether the evidence before the court 'existed in sufficient quantity so that *any* rational trier of fact' could find beyond a reasonable doubt that the juvenile had committed the offense." *Jessi W.*, 214 Ariz. 334, ¶ 11, 152 P.3d at 1219, *quoting William G.*, 192 Ariz. at 212, 963 P.2d at 291. Even comparing Christian's conduct to others of "like age, intelligence and experience," *William G.*, 192 Ariz. at 214, 963 P.2d at 293, the evidence supported the court's finding

that Christian "was [not] entitled to use a knife, which could be deadly. That's excessive, more than what justification would allow."

¶14 Finally, Christian argues the juvenile court erred in its application of § 13-501. We note that, because Christian was not tried as an adult, the court did not apply this statute. To the extent the court relied on the statute to determine what reasonable person standard to apply to Christian's self-defense claim, as previously noted, the court was mistaken. However, the court nonetheless applied the correct reasonable person standard. And, because the record supports that determination, we affirm. *See State v. Oakley*, 180 Ariz. 34, 36, 881 P.2d 366, 368 (App. 1994) (appellate court "will affirm the trial court when it reaches the correct result even though it does so for the wrong reasons").

¶15 Accordingly, we affirm the juvenile court's orders adjudicating Christian delinquent and placing him on probation for nine months.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge