

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR12-514

ANNA BARBER

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 20, 2013

APPEAL FROM THE BOONE
COUNTY CIRCUIT COURT
[NO. CR-2009-253-3]

HONORABLE JOHN R. PUTMAN,
JUDGE

AFFIRMED

JOHN MAUZY PITTMAN, Judge

Appellant was convicted of two counts of endangering the welfare of a minor in the first degree and was sentenced to two consecutive six-year terms of imprisonment. She argues on appeal that the evidence is insufficient to support her convictions. We affirm.

A person charged with supervision of a minor commits first-degree child endangerment if he or she purposely engages in conduct creating a substantial risk of death or serious physical injury to a minor. Ark. Code Ann. § 5-27-205(a)(1) (Repl. 2006). When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State, considering only the evidence that supports the finding of guilt, and we will affirm a conviction if substantial evidence exists to support it. *Jester v. State*, 367 Ark. 249, 239 S.W.3d 484 (2006). Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other,

without resorting to speculation or conjecture. *Holt v. State*, 104 Ark. App. 198, 290 S.W.3d 21 (2008).

Appellant does not deny that she was charged with supervision of the eight- and ten-year-old minors in question, or that she purposely and habitually padlocked them in their room, where they were chained to a tire during the day and duct-taped together in their bed at night. Instead, she argues that those acts were insufficient to create a substantial risk of death or serious physical injury to the minors. We disagree.

In *Dick v. State*, 364 Ark. 133, 217 S.W.3d 778 (2005), the Arkansas Supreme Court held that a guilty verdict for false imprisonment of a minor was supported by evidence that the minor's parent habitually padlocked her in her room and chained her to her bed at night. Specifically, the supreme court held that this was evidence of "excessive and unreasonable restraint that created a substantial risk of serious physical injury." *Id.* at 140, 217 S.W.3d at 783. Although the children in the present case did not burn to death in a house fire, as did the child in *Dick*, they were exposed to a similar degree of risk. Consequently, we hold that the evidence supports a finding that appellant's actions created a substantial risk of death or serious physical injury to the minors.

Affirmed.

GLADWIN, C.J., and WALMSLEY, J., agree.

The Lane Firm, by: *Jonathan T. Lane*, for appellant.

Dustin McDaniel, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., for appellee.