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IN THE COURT OF APPEALS OF INDIANA

T.H.,	)	
	)	
Appellant/Respondent,	)	
	)	
vs.	)	No. 32A01-1002-JV-72
	)	
STATE OF INDIANA,	)	
	)	
Appellee/Petitioner.	)	

APPEAL FROM THE HENDRICKS CIRCUIT COURT
The Honorable Jeffrey V. Boles, Judge
Cause No. 32C01-0906-JD-258

May 19, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

BRADFORD, Judge

Appellant/Petitioner T.H., a juvenile, appeals from the juvenile court's finding that he committed what would be Class D felony Auto Theft/Receiving Stolen Auto Parts[1] and Class A misdemeanor Leaving the Scene of an Accident with Injury[2] if committed by an adult. T.H. contends that the State failed to produce sufficient evidence to sustain a finding that he knew that the car that he was driving when it was involved in an accident was stolen or that any person was injured in the accident. We affirm.

FACTS AND PROCEDURAL HISTORY

Early in the morning of June 3, 2009, S.A., along with her friend M.S., took her aunt's car without permission. S.A., who was driving, collected T.H., M.S., and E.S. The quartet drove to a cemetery, where the car hit something. At some point, S.A. saw a police officer and "freaked out," "stepped on the gas," and ran a red light before turning into a neighborhood. Tr. p. 38. After parking the car in a "random driveway[,]" the quartet "walked away for like ten, twenty minutes" before returning. Tr. p. 38.

S.A. no longer wanted to drive, so T.H. agreed to drive back to S.A.'s aunt's house. T.H. was aware that S.A. did not have permission to drive the car. As the car pulled out of the neighborhood, "the cop came behind[,]" and T.H. started speeding. Tr. p. 15. Eventually, T.H. ran through a stop sign at a three-way intersection and crashed into a house. The quartet fled. Hendricks County Sheriff's Deputy Gregory Jobe responded to the scene and found the car "probably three quarters of the way in the front of the house." Tr. p. 51. The car had "knocked out the dividing wa[ll] between the

[1] Ind. Code § 35-43-4-2.5(b)(1) (2008).

[2] Ind. Code §§ 9-26-1-1 (2008); 9-26-1-8 (2008).

family and where the daughter's room was[.]" Tr. p. 54. Deputy Jobe also noticed that a seven-year-old resident of the house had a cut above her left eye.

Later that morning, the State filed a delinquency petition, alleging that T.H. committed what would be, if committed by an adult, Class D felony auto theft/receiving stolen auto parts, Class A misdemeanor resisting law enforcement, Class A misdemeanor leaving the scene of an accident with injury, and Class C misdemeanor operating a motor vehicle having never been licensed. On July 13, 2009, after a hearing, the juvenile court found that T.H. had committed what would be Class D felony auto theft/receiving stolen auto parts and Class A misdemeanor leaving the scene of an accident with injury if committed by an adult. On July 20, 2009, the juvenile court awarded wardship of T.H. to the Department of Correction ("DOC"). On September 29, 2009, the juvenile court issued a supplemental order of disposition providing that T.H. would be released from DOC upon receipt of his GED.

DISCUSSION AND DECISION

"When the State seeks to have a juvenile adjudicated to be 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.R.T. v. State*, 783 N.E.2d 300, 302 (Ind. Ct. App. 2003) (citations omitted). "Upon review of a juvenile adjudication, this court will consider only the evidence and reasonable inferences supporting the judgment." *Id*. (*citing Moran v. State*, 622 N.E.2d 157, 158 (Ind. 1993)). "We will neither reweigh the evidence nor judge witness credibility." *Id*. (citing *Moran*, 622 N.E.2d at 158). "If there is substantial evidence of probative value from which a

reasonable trier of fact could conclude that the defendant was guilty beyond a reasonable doubt, we will affirm the adjudication." *Id*. (citing *Moran*, 622 N.E.2d at 158).

A. Auto Theft/Receiving Stolen Auto Parts

In order to support a finding that T.H. committed auto theft/receiving stolen auto parts, it was required to show that he "knowingly or intentionally exert[ed] unauthorized control over the motor vehicle of another person, with intent to deprive the owner of … the vehicle's value or use" or that he "knowingly or intentionally receive[d], retain[ed], or dispose[d] of a motor vehicle or any part of a motor vehicle of another person that has been the subject of theft[.]" Ind. Code § 35-43-4-2.5(b); -2.5(c). T.H. argues that the State failed to prove that the car was stolen or that T.H. had reason to believe that it was.[3]

T.H. notes that A.S.'s aunt did not testify that her car had been taken without permission and that nobody had reported the car stolen. A.S. testified, however, that she took her aunt's car without permission, *i.e.*, that it had been the subject of a theft, and that T.H. knew that she had done so. T.H. points to no authority that the owner's testimony is required to establish a theft, and we are aware of none. T.H. also suggests that no theft took place because there are indications that no permanent deprivation of value or use was intended. The fact that A.S. seems to have intended to take the car on a "joyride" is irrelevant. As we recently held, in an opinion adopted in whole by the Indiana Supreme Court, the intent to permanently deprive an owner of value or use is not an element of auto theft. *See Bennett v. State*, 871 N.E.2d 316, 322 (Ind. Ct. App. 2007), *trans. granted*

[3] Although the record is not entirely clear which subsection of Indiana Code section 35-43-4-2.5 T.H. was supposed to have violated, his specific argument is equally applicable to subsections (b) and (c). In other words, the State's case would fail under either subsection if it failed to establish that T.H. knew that A.S. had taken the car without permission.

and adopted by Bennett v. State, 878 N.E.2d 836 (Ind. 2008). A temporary deprivation will do, and the evidence certainly establishes that that occurred here.

B. Leaving the Scene of an Accident With Injury

Indiana Code section 9-26-1-1 details the duties of a driver involved in an accident and provides as follows:

> The driver of a vehicle involved in an accident that results in the injury or death of a person or the entrapment of a person in a vehicle shall do the following:
>
> (1) Immediately stop the driver's vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
>
> (2) Immediately return to and remain at the scene of the accident until the driver does the following:
>
> (A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.
>
> (B) Upon request, exhibits the driver's license of the driver to the following:
>
> (i) The person struck.
>
> (ii) The driver or occupant of or person attending each vehicle involved in the accident.
>
> (C) Subject to section 1.5(a) of this chapter, determines the need for and renders reasonable assistance to each person injured or entrapped in the accident, including the removal of, or the making of arrangements for the removal of:
>
> (i) each injured person from the scene of the accident to a physician or hospital for medical treatment; and
>
> (ii) each entrapped person from the vehicle in which the person is entrapped.
>
> (3) Subject to section 1.5(b) of this chapter, immediately give notice of the accident by the quickest means of communication to one (1) of the following:
>
> (A) The local police department, if the accident occurs within a municipality.
>
> (B) The office of the county sheriff or the nearest state police post, if the accident occurs outside a municipality.
>
> (4) Within ten (10) days after the accident, forward a written report of the accident to the:

> (A) state police department, if the accident occurs before January 1, 2006; or
> (B) bureau, if the accident occurs after December 31, 2005.

"A person who knowingly or intentionally fails to stop or comply with section 1(1) or 1(2) of this chapter after causing injury to a person commits a Class A misdemeanor." Ind. Code § 9-26-1-8. T.H. contends that the State failed to establish that the collision of the car with the house caused the head injury to the child within. T.H. notes that none of the residents of the damaged home were called to testify regarding how the girl received the cut on her head and suggests that such testimony should be required. Again, T.H. points to no authority for this proposition and we are aware of none. The question is not whether the best possible evidence has been introduced, but, rather, whether *sufficient* evidence has been introduced.

We conclude that the evidence supports a reasonable inference that the girl's head injury was caused by the accident. Shortly after a violent collision that severely damaged the home, including the girl's room, she is observed to have a cut on her head. In the absence of any evidence pointing to any other cause, it is not unreasonable to conclude that the accident caused the injury. T.H.'s argument is an invitation to reweigh the evidence, one that we decline.

The judgment of the juvenile court is affirmed.

RILEY, J., and MATHIAS, J., concur.