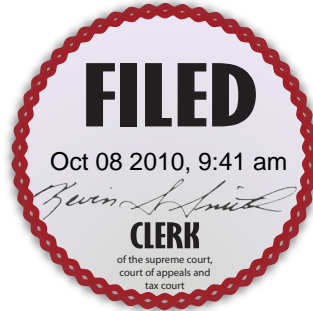


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

KEVIN WILD
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

MONIKA PREKOPA TALBOT
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

S.T.,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A02-1002-JV-301
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn A. Moores, Judge
The Honorable Scott Stowers, Magistrate
Cause No. 49D09-0910-JD-3280
Cause No. 49D09-0908-JD-2896

October 8, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

S.T. appeals from the juvenile court's dispositional order finding him to be a delinquent child for committing acts that, if committed by an adult, would be class C felony Robbery¹ and class A misdemeanor Battery.² S.T. presents one issue for our review: Is the evidence sufficient to support his adjudication as to the robbery offense?

We affirm.

The facts most favorable to the adjudication follow. On September 18, 2009, a student at Manual High School told another student, D.B., that he had brought \$66 to school to purchase a "PSP" from a friend. *Transcript* at 20. During the eighth period of the day, the student received permission to go to the restroom from Mr. Lloyd, the choral teacher. When the student went into the restroom, he observed several other individuals, as many as ten, including S.T. and D.B., in the restroom. The student felt "weird" because so many people were in the restroom, so he stood near the back wall and waited for approximately a minute, looking around. *Id.* at 4. When the student turned around, S.T. hit him with a closed fist in the lower right corner of his chin, causing the student to immediately fall to the ground.³ While on the ground, the student was immediately hit an additional five to seven times. At some point, money was taken from the student's pocket and someone in the group asked the student where the rest of the money was. Because the student was covering his face with his arms to protect himself from the strikes, the student was unsure who hit him while he was on

¹ Ind. Code Ann. § 35-42-5-1 (West, Westlaw through 2010 2nd Regular Sess.).

² I.C. § 35-42-2-1 (West, Westlaw through 2010 2nd Regular Sess.).

³ As a result of the initial hit by S.T., the student suffered a busted lip that caused bleeding and also a tooth was pushed out of place.

the ground, who took his money, and who asked him about where the rest of his money was located.

After the altercation the student returned to class. The student had been gone approximately five to seven minutes. When the student came into the room, Mr. Lloyd observed that the student looked upset and that he had a busted lip and blood in his mouth. Mr. Lloyd reported the incident to school security. Officer Thomas Williams responded to the call and escorted the student from the classroom. The student was shown photographs from student identification cards and affirmatively identified S.T. as the person who first struck him. The student also identified S.T. in person through a two-way mirror.

On October 23, 2009, the State filed a delinquency petition against S.T., alleging that S.T. committed the offenses of robbery as a class C felony and battery as a class A misdemeanor, if committed by an adult. The juvenile court held a denial hearing on January 15, 2010, and then heard evidence relating to the allegations. At the conclusion of the hearing, the court entered true findings on both counts. The court also found that S.T. violated a condition of his previously imposed probation. A dispositional hearing was held on February 5, 2010. The juvenile court placed S.T. on probation, with special conditions, and then released S.T. to his guardian.

S.T. argues the evidence is insufficient to sustain the court's true finding that he committed robbery. Specifically, S.T. argues the evidence does not establish that he personally committed any elements of the robbery or that he knowingly, intentionally aided, induced, or caused another person to hit the student and take money from him. S.T.'s

argument is based on the fact that the student could not identify who took his money or asked where the rest of the money was located.

Our standard of review in a juvenile case regarding whether there is sufficient evidence is as follows: When the State seeks to have a juvenile adjudicated as a delinquent child, it must prove every element of an offense beyond a reasonable doubt. *S.D. v. State*, 847 N.E.2d 255 (Ind. Ct. App. 2006), *trans. denied*. We will not reweigh the evidence, judge the witnesses' credibility, or resolve conflicts in testimony because these are determinations properly made by the trier of fact. *Id.* Rather, we look to the evidence and the reasonable inferences to be drawn therefrom that support the true finding. *Id.* We will affirm a true finding if there is probative evidence from which the factfinder could conclude the defendant is guilty beyond a reasonable doubt. *Id.*

Here, the juvenile court based its true finding on accomplice liability:

Alright, court's heard the testimony statute says that anyone who aides, induces or abets another in, in um, in um, committing an offense, commits that offense. It's clear that [the student] was punched knocked down and then somebody maybe [S.T.], maybe somebody else got in his pocket and took some money, um, but one thing is for sure had [S.T.] not have knocked [the student] over nobody would have gotten in his pocket if that's not aiding, causing or inducing I don't know what is. True finding as to count one Robbery. . . .

Transcript at 31-32. It is well-established in Indiana that there is no distinction between criminal responsibility of a principal and that of an accomplice. *McQueen v. State*, 711 N.E.2d 503 (Ind. 1999) (citing *Marshall v. State*, 621 N.E.2d 308 (Ind. 1993)). Thus, one may be charged as a principal yet convicted as an accomplice. *Id.* Accordingly, to sustain the true finding as to the robbery offense, the State's evidence must have established beyond

a reasonable doubt that S.T. (1) knowingly or intentionally (2) aided, induced, or caused another person (3) to take property from the student (4) by using force on the student. *See* I.C. § 35-42-5-1 (robbery); Ind. Code Ann. § 35-41-2-4 (West, Westlaw through 2010 2nd Regular Sess.) (accomplice liability). Factors for to consider in deciding accomplice liability include: (1) presence at the scene of the crime; (2) companionship with another engaged in a crime; (3) failure to oppose the commission of the crime; and (4) the course of conduct before, during, and after the occurrence of the crime. *Whedon v. State*, 765 N.E.2d 1276 (Ind. 2002). While mere presence at the scene or acquiescence in the crime is not sufficient to establish accomplice liability, they may be considered along with these factors to determine participation. *Id.*

The facts favorable to the conviction reveal that the student was in the restroom along with a group of other boys, one of whom knew that the student had \$66 in his possession. After waiting approximately one minute, the student turned around and S.T. struck him in the face with his fist, immediately knocking the student to the ground. The student was then repeatedly struck in quick succession as he lay on the floor. During the altercation, which lasted no more than a few minutes, one of the individuals in the restroom took money from the student's pocket and an individual asked the student where the rest of the money was located. The initial blow inflicted by S.T., which rendered the student defenseless and lying on the floor of the restroom, clearly aided in the commission of the offense. Given that S.T. was present in the restroom with the individual who knew how much money the student had brought to school that day, a reasonable inference can be drawn that S.T. knew the student had money on his person and that with S.T.'s first blow, he was aiding in robbing the student.

The evidence clearly establishes the elements of robbery and that S.T. knowingly or intentionally aided, induced, or caused the robbery to occur. S.T.'s arguments to the contrary are mere requests that we reweigh the evidence and judge the credibility of the witnesses. This we will not do.

Judgment affirmed.

BARNES, J., and CRONE, J., concur.