

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE C.M.

No. 2 CA-JV 2021-0128
Filed February 7, 2022

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);
Ariz. R. P. Juv. Ct. 103(G).

Appeal from the Superior Court in Pima County
No. JV20200398
The Honorable Ken Sanders, Judge Pro Tempore

AFFIRMED

COUNSEL

Laura Conover, Pima County Attorney
By Kara Crosby, Deputy County Attorney, Tucson
Counsel for State

Law Offices of Christopher L. Scileppi
By Christopher L. Scileppi
Counsel for Minor

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MEMORANDUM DECISION

Presiding Judge Eckerstrom authored the decision of the Court, in which Chief Judge Vásquez and Judge Espinosa concurred.

ECKERSTROM, Presiding Judge:

¶1 C.M., born November 2004, appeals from the juvenile court’s order adjudicating him delinquent for child molestation and sexual conduct with a minor and placing him on probation. We affirm.

¶2 In November 2020, the state filed a delinquency petition alleging C.M. had committed sexual conduct with a minor and child molestation, naming as victims M.T. and N.T. During the adjudication hearing, M.T. testified that C.M. had sodomized him when he was seven years old, during the summer of 2019. M.T.’s younger brother, N.T., testified that in November 2019, when he was six years old, C.M. had forced him to touch C.M.’s penis. On appeal, C.M. argues the juvenile court erred by concluding he had committed those offenses. He focuses on purported inconsistencies in the hearing testimony and asserts that the juvenile court made several findings that “were unsupported by the evidence.”

¶3 We view the evidence in the light most favorable to upholding the juvenile court’s adjudication.¹ *In re Jessi W.*, 214 Ariz. 334, ¶ 11 (App. 2007). To determine whether there was sufficient evidence, we consider only whether “a rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt,” *In re Maricopa Cnty. Juv. Action No. JT9065297*, 181 Ariz. 69, 82 (App. 1994), and we will not disturb the court’s order unless “there is a complete absence of probative facts to support the judgment or if the judgment is contrary to any substantial evidence,” *In re John M.*, 201 Ariz. 424, ¶ 7 (App. 2001). We do not reweigh the evidence; we instead defer to the court’s assessment of

¹C.M. cites *People v. Blakeslee*, 82 Cal. Rptr. 839, 842 (Ct. App. 1969), for the proposition that “the more serious the charge . . . the more substantial the proof of guilt should be in order to reasonably inspire confidence” in the verdict. That statement does not reflect Arizona law. We do not alter the burden of proof or our review of the evidence depending on the “serious[ness]” of the offense.

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credibility as well as its resolution of any conflicts in the evidence. *See In re Maricopa Cnty. Juv. Action No. JV-132905*, 186 Ariz. 607, 609 (App. 1996). The testimony of a victim is sufficient without corroboration by physical evidence unless the victim's description of events "is physically impossible or so incredible that no reasonable person could believe it." *State v. Williams*, 111 Ariz. 175, 178 (1974).

¶4 C.M. is correct there are conflicts in the evidence.² For example, there were pronounced differences between M.T.'s account and that of his parents as to how and when he told them of C.M.'s assault. And C.M.'s brother—in contradiction to the victims' testimony—claimed to have been in the room when C.M. had allegedly molested N.T. under a blanket while they watched a movie and testified nothing had occurred. But, to accept C.M.'s arguments on appeal, we would have to abandon core tenets of appellate review. That the juvenile court resolved evidentiary conflicts against C.M. and found the victims credible is not a basis for relief on appeal.

¶5 C.M.'s argument the juvenile court made findings unsupported by the evidence is also meritless. He first complains about the court's finding that an investigating detective had corroborated M.T.'s testimony that C.M. had offered him earbuds to remain silent, noting the detective had said there was no physical evidence. But the earbuds apparently had been thrown away, and the detective testified M.T. had stated during a forensic interview that C.M. had given him earbuds, which was consistent with M.T.'s trial testimony.

¶6 C.M. next asserts the juvenile court erred by concluding the date the victims' parents reported C.M.'s assault of M.T. corroborated M.T.'s accusation. He argues that M.T.'s statement that he told his parents "right after" C.M. had molested N.T. renders that finding incorrect, since the parents did not report C.M.'s conduct involving M.T. until about two months later. But there was testimony that many young children have trouble remembering exactly when events had occurred. In essence, C.M. asserts the court could not have found M.T.'s testimony about C.M.'s

² Some of the conflicts C.M. identifies, however, are readily explained. He complains about N.T.'s testimony that C.M. had offered him earbuds to remain silent despite evidence C.M. had previously offered earbuds to M.T. for the same purpose. But, even were the factfinder to assume C.M. had only one pair to offer, N.T. stated he did not receive earbuds from C.M.

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molestation of N.T. credible without discrediting other testimony. But, as we stated above, it was the court's role to resolve conflicts in the evidence.

¶7 We affirm the juvenile court's adjudication and disposition.