FILED BY CLERK
AUG 25 2010
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

	)	2 CA-JV 2010-0037
	)	DEPARTMENT B
	)	
IN RE ROBERT T.	)	MEMORANDUM DECISION
	)	Not for Publication
	)	Rule 28, Rules of Civil
	)	Appellate Procedure
	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. JV8624505

Honorable Danelle Liwski, Judge Pro Tempore

AFFIRMED

Barbara LaWall, Pima County Attorney
By Barbara S. Gelband
Tucson
Attorneys for Appellee

Robert Hirsh, Pima County Public Defender
By Julie M. Levitt-Guren
Tucson
Attorneys for Appellant

K E L L Y, Judge.

¶1 After a contested adjudication hearing in February 2010, the juvenile court found seventeen-year-old Robert T. had committed the offenses of criminal damage in an amount of $10,000 or more, failure to give information/aid at an accident and to notify the owner of an unattended vehicle, and leaving the scene of an accident causing damage. The court adjudicated Robert delinquent and found he had violated the conditions of probation previously imposed in an earlier delinquency adjudication. The court placed Robert on juvenile intensive probation until his eighteenth birthday and ordered him to pay $1,000 in restitution.[1] On appeal, Robert argues the evidence was insufficient to prove damages of $10,000 or more to establish he had committed a class four felony under the criminal damage statute.[2] Robert asks this court to order the juvenile court "to reduce his adjudication and reconsider his disposition." We affirm.

¶2 When reviewing a delinquency adjudication, "we will not re-weigh the evidence, and we will only reverse on the grounds of insufficient evidence if 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, 36 P.3d 772, 774 (App. 2001). We view the evidence in the light most favorable to sustaining the adjudication. *In re Julio L*, 197 Ariz. 1, ¶ 6, 3 P.3d 383, 385 (2000).

---

[1]Robert turned eighteen on August 20, 2010.

[2]Section 13-1602(B)(1), A.R.S., classifies criminal damage as a class four felony "if the person recklessly damages property of another in an amount of ten thousand dollars or more."

¶3 The evidence here established that in November 2009, Robert drove his mother's vehicle without her permission, and admitted to the police that he was speeding when he lost control, pressed the gas pedal instead of the brake pedal, and hit the victim, M.'s, parked vehicle and her home. M.'s vehicle was pushed on top of the fence on her property, the vehicle Robert was driving landed on top of the trees on M.'s property, M.'s barbeque was pushed into the back door of her home, and her dog was injured. Robert "freaked out" and left the scene of the accident without leaving a note for M.

¶4 Robert argues the state failed to show how it had calculated damages of $10,000 or more, and thus failed to support the criminal damage adjudication. At the adjudication hearing, M. testified she had paid $1,500 toward home repairs, which her insurance company had estimated would ultimately cost $3,000, and that her insurance company paid her $14,095.33 for her car, which M. testified could not be fixed. In addition, the juvenile court viewed numerous photographs showing the damage to M.'s car and her property. Noting that it had found M. "to be extremely credible," the court stated that, because it believed her insurance company had paid her $14,095.33 for the car and additional money for damages to her home, the state had established beyond a reasonable doubt Robert had caused M. to sustain damages of at least $10,000.

¶5 At the disposition hearing, the court addressed Robert's motion for reconsideration of its denial of his motion for judgment of acquittal on the criminal damage count. Relying on *State v. Brockell*, 187 Ariz. 226, 928 P.2d 650 (App. 1996),

the court denied Robert's motion, again noting it had found M. "very credible" and that her testimony had established the requisite damages.

¶6 Robert argues, as he did below, that because the state failed to establish the method whereby it had calculated M.'s damages, an element of the criminal damage charge, it had not presented sufficient evidence to sustain the criminal damage adjudication. Relying on *Brockell*, Robert contends the state was required not only to establish the amount of damages, but to demonstrate the method it had used to calculate those damages. *Id*. at 229, 928 P.2d at 653. However, as we also recognized in *Brockell*, the general rules for determining damage to property "'should be flexible guides in determining the true amount of loss.'" *Id*. at 228, 928 P.2d at 652, *quoting Dixon v. City of Phoenix*, 173 Ariz. 612, 620, 845 P.2d 1107, 1115 (App. 1992). Here, M. testified as to the amount of money her insurance company had paid her for the damages Robert had caused. Based on this evidence, the juvenile court could reasonably infer the damages were $10,000 or more and that Robert had committed criminal damage, a class four felony as alleged in the delinquency petition. The court specifically found:

> I think that [M.] can testify as to the amount she received from an insurance company, which does write a check and in a reasonable-person standard . . . the [c]ourt[-]recognized general rule for determining damage to property should be flexible guidelines in determining the true amount of loss, that you can take all things into consideration, what's reasonable and practical. Insurance companies don't write checks for zero reason. They wrote two checks. She received those checks. They're over an excess of ten thousand by a significant amount, not by pennies, but by $7000, and I think that's sufficient evidence.

¶7 To the extent Robert suggests the juvenile court speculated as to the amount of damages or that M.'s testimony regarding the amount she had been paid was impermissible hearsay, the record simply does not support these claims. Rather, M. testified her insurance company had paid her more than $10,000 for the damages Robert had caused to her property and the court found M. credible. Common sense permitted the court to infer the insurance company would not have paid more money to M. than the damages she had sustained. *See State v. Printz*, 125 Ariz. 300, 304, 609 P.2d 570, 574 (1980) (when determining value, jury may utilize its common sense).

¶8 Because substantial evidence supported the juvenile court's findings, we affirm the order adjudicating Robert delinquent and its disposition order.

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

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