

Cite as 2010 Ark. App. 799

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA09-1395

M.W.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered December 1, 2010APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
TENTH DIVISION
[JD-2009-360]HONORABLE JOYCE WARREN,
JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

Appellant, M.W., was adjudicated delinquent on the charge of second-degree battery, a Class D felony, and placed on probation. On appeal, M.W. argues that the trial court erred in finding sufficient evidence that she knowingly caused physical injury as required by statute. This argument was not preserved for appellate review. We affirm.

Juvenile delinquency proceedings, except as otherwise provided in the juvenile code, are governed by the Arkansas Rules of Criminal Procedure. Ark. Code Ann. § 9-27-325(f) (Repl. 2009). In nonjury trials, if a motion for dismissal is to be made, it shall be made at the close of all of the evidence, and if a motion for dismissal is made at the close of the prosecution's evidence, it must be renewed at the close of all of the evidence; in both cases,

Cite as 2010 Ark. App. 799

the motion for dismissal must state the specific grounds therefor. Ark. R. Crim. P. 33.1(b) (2010). The failure to challenge the sufficiency of the evidence at the time and in the manner specified constitutes a waiver of any question pertaining to the sufficiency of the evidence. Ark. R. Crim. P. 33.1(c).

Here, defense counsel made the following motion at the close of the State's case: "I think that they may have proven the disorderly conduct, but I think that's all they have proven so far. I'd move for a dismissal on the count of felony battery." The trial court denied this motion. At the close of all of the evidence, defense counsel renewed his motion. The trial court then adjudicated M.W. delinquent.

M.W.'s motion failed to state any specific ground for dismissal; therefore, in accordance with Rule 33.1 of the Arkansas Rules of Criminal Procedure, she has waived any argument regarding the sufficiency of the evidence. She argues on appeal that the trial court erred in finding that she knowingly caused physical injury; however, that argument was never made to the trial court. A party cannot change the grounds for a motion on appeal but is bound by the scope and nature of the argument made at trial. *Ellison v. State*, 354 Ark. 340, 123 S.W.3d 874 (2003). For these reasons, M.W.'s argument on appeal is not preserved, and we affirm the adjudication.

Affirmed.

PITTMAN and GRUBER, JJ., agree.