

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2008

J. L., A CHILD,

Appellant,

v.

Case No. 5D08-1060

STATE OF FLORIDA,

Appellee.

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Opinion filed October 17, 2008

Appeal from the Circuit Court
for Orange County,
Gail A. Adams, Judge.

James S. Purdy, Public Defender, and
Anne Moorman Reeves, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and L. Charlene Matthews,
Assistant Attorney General, Daytona
Beach, for Appellee.

EVANDER, J.

J. L. was adjudicated delinquent after being found guilty of making a false report concerning the placement of a bomb in violation of section 790.163(1), Florida Statutes (2007). He contends that the State's evidence was insufficient to support a finding of guilt. We agree.

Section 790.163(1) provides:

It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction. . . .

The statute is therefore violated when a person knowingly makes a false report that a bomb or other deadly explosive has been placed or planted. By contrast, a threat to plant a bomb in the distant future does not violate this statute. *D.B. v. State*, 825 So. 2d 1042 (Fla. 1st DCA 2002).

In the instant case, the arresting law enforcement officer testified that she had been advised by dispatch that a "bomb threat" had been made to Life Skills Center. After conducting a search, the officer determined that there was no bomb placed at this location. The officer then conducted an investigation which eventually resulted in the questioning of J. L. According to the officer, J. L. "did confess to making a bomb threat." However, even after being given the opportunity to reopen its case, the State failed to present any evidence as to the words actually used in the "bomb threat." Absent some evidence of the words used by J. L., we conclude that the State failed to meet its burden of proof. In so holding, we do not suggest that the State was required to establish the exact words used by J. L. But the State must present more than a witness' conclusory statement that a "bomb threat" was made. Here, it simply cannot be determined from the evidence whether J. L. knowingly made a false report regarding the placement of a bomb.

REVERSED and REMANDED.

GRIFFIN and SAWAYA, JJ., concur.