

Third District Court of Appeal

State of Florida

Opinion filed October 23, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-2563
Lower Tribunal No. 18-1495

G.C., a juvenile,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Orlando A. Prescott, Judge.

Carlos J. Martinez, Public Defender, and Jeffrey Paul DeSousa and Shannon Hemmendinger, Assistant Public Defenders, for appellant.

Ashley Moody, Attorney General, and Kayla Heather McNab, Assistant Attorney General, for appellee.

Before EMAS, C.J., and SCALES and HENDON, JJ.

HENDON, J.

G.C., a juvenile, appeals the disposition order finding he committed the offense of fleeing or attempting to elude a law enforcement officer in violation of section 316.1935(2), Florida Statutes (2018). The trial court withheld adjudication and placed G.C. on probation. We affirm.

The State filed a petition for delinquency charging G.C. with violating section 316.1935(2), which provides as follows:

Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, **with agency insignia and other jurisdictional markings prominently displayed on the vehicle**, with siren and lights activated commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(emphasis added). At G.C.'s adjudicatory hearing, the State presented the testimony of a law enforcement officer with the City of Miami Police Department, who testified as follows. He attempted to conduct a traffic stop of G.C. after spotting him riding an off-road dirt bike without tags on a public road. The law enforcement officer was in a "marked police vehicle" that had "[v]isible police emblems, City of Miami Police emblems, stripes, visible police light bar, push bar," and during the attempted traffic stop, the law enforcement officer had activated the lights and sirens on the marked police vehicle. When the law enforcement officer activated the siren and lights, G.C. turned back and looked straight into the law enforcement officer's eyes and continued to drive. Thereafter, the law enforcement officer utilized the police vehicle's public announcement

speaker, and said something like, “Miami Police. Stop. Stop. Stop the vehicle.” Once again, G.C. turned back, looked straight into the law enforcement officer’s eyes and kept on driving. Eventually, G.C. lost control of the dirt bike and collided into a fence.

At the conclusion of the hearing, the trial court found that G.C. had committed the charged offense, and thereafter, entered an order withholding adjudication and placing G.C. on probation. G.C.’s appeal follows.

The only issue raised by G.C. on appeal is whether the trial court erred by denying his motion for judgment of acquittal based on his argument that the law enforcement officer’s testimony did not establish, as required by section 316.1935(2), that the “agency insignia and other jurisdictional markings” on the law enforcement officer’s patrol vehicle were “prominently displayed.”

As stated above, the law enforcement officer testified the he was in a “marked police vehicle” that had “[v]isible police emblems, City of Miami Police emblems, stripes, visible police light bar, push bar.” (emphasis added). Black’s Law Dictionary defines the term “visible” as: “1. Perceptible to the eye; discernible by sight. 2. *Clear, distinct, and conspicuous.*” *Visible*, Black’s Law Dictionary (8th ed. 2004) (emphasis added). The term “prominent” is not defined in Black’s Law Dictionary, however, the Meriam-Webster Dictionary defines the

term, in part, as “readily noticeable : CONSPICUOUS.”¹ Thus, although the law enforcement officer did not specifically describe the size of the “visible” City of Miami Police emblem or specifically use the word “prominent” when referring to the City of Miami Police emblem, we nonetheless affirm based on our conclusion that the State presented sufficient evidence to satisfy the requirements of section 316.1935(2).

Affirmed.

¹ See <https://www.merriam-webster.com/dictionary/prominent>.