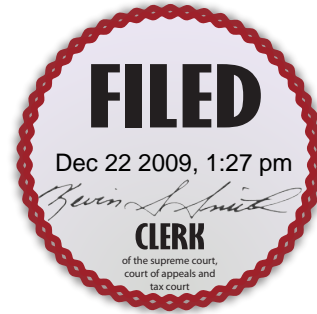


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

J.V.,)
)
Appellant- Respondent,)
)
vs.) No. 20A03-0907-JV-308
)
STATE OF INDIANA,)
)
Appellee- Petitioner,)

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Terry C. Shewmaker, Judge
The Honorable Deborah Domine, Magistrate
Cause No. 20C01-0903-JD-123

December 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

J.V. appeals the juvenile court's finding he committed an offense that would constitute battery resulting in serious bodily injury, a Class C felony, if committed by an adult. For our review, J.V. raises a single issue, which we restate as whether sufficient evidence supports the juvenile court's finding the battery caused serious bodily injury. Concluding the evidence is sufficient, we affirm.

Facts and Procedural History

On February 4, 2009, A.V. was walking home from school with his sister and a friend when four individuals, including J.V., attacked him. During the attack, J.V. hit and kicked A.V. Following the attack, A.V. went to Elkhart Memorial Hospital for treatment. A.V. told hospital staff "he was out temporarily." Petitioner's Exhibit 5. He was diagnosed with an acute concussion and released with a prescription for pain medication.

On March 25, 2009, the State filed a delinquency petition alleging J.V. committed an offense that would constitute battery resulting in serious bodily injury, a Class C felony. At the juvenile hearing, A.V. testified he was "pretty sure I was knocked for at least four seconds." Transcript at 14. A.V. further testified he was dizzy and did not remember some things. At the conclusion of the hearing, the juvenile court entered findings of fact and concluded J.V. committed the charged offense. J.V. now appeals.

Discussion and Decision

When we review the sufficiency of the evidence in a juvenile adjudication, we neither reweigh the evidence nor judge the credibility of the witnesses. J.D.P. v. State, 857 N.E.2d 1000, 1010 (Ind. Ct. App. 2006), trans. denied. Rather, considering only the

evidence most favorable to the judgment and the reasonable inferences drawn therefrom, we will affirm if we find substantial evidence of probative value to support the judgment.

Id.

In order to prove J.V. committed an offense that would be battery resulting in serious bodily injury if committed by an adult, the State must prove beyond a reasonable doubt J.V. touched A.V. in a rude, insolent, or angry manner and caused serious bodily injury to A.V. See Ind. Code § 35-42-2-1(a)(3). J.V. does not dispute the juvenile court's finding he committed battery; rather, J.V. argues the evidence is not sufficient to support a finding the battery resulted in serious bodily injury to A.V.

Indiana Code section 35-41-1-25(2) defines serious bodily injury as “bodily injury that creates a substantial risk of death or that causes ... unconsciousness.” Whereas some of the injuries that qualify for serious bodily injury are qualified by discretionary terms, for example: “serious permanent disfigurement ... extreme pain ... protracted loss or impairment,” Ind. Code § 35-41-1-25(1), (3), and (4) (emphasis added), the term “unconsciousness” contains no such qualification, Ind. Code § 35-41-1-25(2). Rather, unconsciousness is a verifiable standard and the statutory definition is not subject to a discretionary decision based on the length or severity of the unconsciousness.

Here, the uncontroverted evidence of A.V.'s statement to hospital staff and A.V.'s testimony proves the attack rendered him unconscious for a short period of time. Pursuant to the statutory definition, unconsciousness of any duration establishes serious bodily injury. Thus, the evidence is sufficient to support the juvenile court's finding J.V.

committed an offense that would be battery resulting in serious bodily injury if committed by an adult.

Conclusion

Sufficient evidence supports the juvenile court's finding J.V. committed an offense that would be battery resulting in serious bodily injury, a Class C felony, if committed by an adult. Therefore, the juvenile court's judgment is affirmed.

Affirmed.

BAKER, C.J., and BAILEY, J., concur.