MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

K.F.,

Appellant-Respondent,

v.

State of Indiana,

Appellee-Petitioner.

April 17, 2024

Court of Appeals Case No.
23A-JV-1584

Appeal from the
Marion Superior Court

The Honorable
Stephen R. Creason, Judge

The Honorable
Pauline A. Beeson, Magistrate

Trial Court Cause No.
49D16-2303-JD-1738

Memorandum Decision by Senior Judge Baker
Chief Judge Altice and Judge Tavitas concur.

Baker, Senior Judge.

Statement of the Case

[1] K.F. contests the juvenile court's authorization of the filing of the delinquency petition. He also challenges the sufficiency of the evidence supporting his adjudication as a juvenile delinquent for intimidation after he made a statement in a busy school hallway in reaction to the alleged stabbing of his friend. Concluding the evidence was not sufficient, we reverse K.F.'s adjudication.

Issues

[2] K.F. presents two issues for our review, one of which is dispositive: whether the State presented sufficient evidence to support K.F.'s adjudication as a juvenile delinquent for committing an act that would be Class A misdemeanor intimidation if committed by an adult.

Facts and Procedural History

[3] On February 9, 2023, sixteen-year-old K.F. was in the eleventh grade at Tindley Accelerated School. As school was dismissing for the day, a fight occurred, and several students were saying that K.F.'s friend had been stabbed. Upon hearing

this news, K.F. stated, "[W]ho stabbed my friend? I'm going to get my gun[.]" Tr. Vol. II, pp. 22, 23. K.F. made this statement in a school hallway filled with students and in close proximity to faculty and staff.

[4] The State filed a delinquency petition alleging that K.F. had committed intimidation, a Level 6 Felony if committed by an adult, and disorderly conduct, a Class B misdemeanor if committed by an adult. On the day of the fact-finding hearing, the State added a second count of Level 6 intimidation. Following the hearing, the court entered a true finding on the lesser-included Class A misdemeanor of the newly-added intimidation count and not true findings on the remaining two counts. K.F. now appeals his adjudication of delinquency.

Discussion and Decision

[5] K.F. contends the evidence was insufficient to support his adjudication as a delinquent for an act that would be considered intimidation if committed by an adult. When we review the sufficiency of the evidence in a juvenile adjudication, we neither reweigh the evidence nor reevaluate the credibility of the witnesses. *B.B. v. State*, 141 N.E.3d 856, 859 (Ind. Ct. App. 2020) (quoting *B.T.E. v. State*, 108 N.E.3d 322, 326 (Ind. 2018)). We consider only the evidence favorable to the true finding and any reasonable inferences therefrom. *Id.* And we will affirm a delinquency adjudication if the evidence and those inferences constitute substantial evidence of probative value to support it. *E.S. v. State*, 198 N.E.3d 701, 703 (Ind. Ct. App. 2022).

[6] Our intimidation statute provides, in relevant part, that "[a] person who communicates a threat with the intent . . . that another person be placed in fear that the threat will be carried out . . . commits intimidation[.]" Ind. Code § 35-45-2-1(a)(4) (2022). The statute defines "threat," in pertinent part, as "an expression, by words or action, of an intention to . . . commit a crime[.]" I.C. § 35-45-2-1(c)(3). Thus, to support a true finding for the lesser-included offense of intimidation as alleged in the delinquency petition, the State was required to prove beyond a reasonable doubt that K.F. "communicate[d] a threat to commit a [crime] to Tindley High School Faculty And Staff . . . with the intent that Tindley High School Faculty And Staff be placed in fear that the threat [would] be carried out[.]" Appellant's App. Vol. II, p. 39.

[7] K.F. argues that the evidence was insufficient to show that he intended to communicate a threat to Tindley faculty and staff or that he intended Tindley faculty and staff to be placed in fear. Intent is a mental function that is determined by considering a person's conduct and the natural and usual consequences of that conduct. *Matter of K.Y.*, 175 N.E.3d 820, 825 (Ind. Ct. App. 2021), *trans. denied*. "'A defendant's intent may be proven by circumstantial evidence alone, and knowledge and intent may be inferred from the facts and circumstances of each case.'" *B.B.*, 141 N.E.3d at 860 (quoting *Chastain v. State*, 58 N.E.3d 235, 240 (Ind. Ct. App. 2016), *trans. denied*).

[8] Here, the State specifically alleged that K.F. threatened Tindley faculty and staff and that he did so with the intent that Tindley faculty and staff be placed in fear. At the fact-finding hearing, State's witness Jordyn Goins, Dean of

Students at Tindley, testified that she was in the hallway filled with students and heard K.F. say, "[W]ho stabbed my friend? I'm going to get my gun[.]" Tr. Vol. II, p. 22. The State presented no testimony or other evidence demonstrating that K.F. intended to threaten Tindley faculty and staff or to place them in fear.

[9] Assuming K.F.'s statement constituted a threat, we conclude that his conduct does not meet the statutory definition of intimidation due to the lack of evidence that he intended to place Tindley faculty and staff in fear as the State alleged in the delinquency petition. Although no such argument has been made, a reasonable inference from these circumstances and the content of the statement is that K.F. intended to threaten the student who allegedly stabbed his friend and to place that student in fear. Yet, the State alleged in its petition and argued at the fact-finding that K.F. intended to threaten and place in fear the faculty and staff of Tindley High School. Thus, based on the evidence, we must conclude the State failed to prove beyond a reasonable doubt that K.F. committed what would be Class A misdemeanor intimidation if committed by an adult.

[10] We do not mean, however, for our holding and reasoning in this case to be construed as approval of K.F.'s actions. We acknowledge that K.F.'s statement was disturbing. And while we conclude the State failed to carry its burden of establishing that K.F.'s conduct amounted to intimidation of the school's faculty and staff in this instance, we are mindful of the devastation that school

shootings have caused across our nation over the years, and we do not condone this type of behavior.

Conclusion

[11] Based on the foregoing, we conclude there was insufficient evidence that K.F. acted with the intent that Tindley faculty and staff be placed in fear, and we reverse K.F.'s intimidation adjudication.

Altice, C.J., and Tavitas, J., concur.

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