

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

D.D.,

Appellant-Respondent

v.

State of Indiana,

Appellee-Petitioner



April 26, 2024

Court of Appeals Case No.
23A-JV-2816

Appeal from the Marion Superior Court
The Honorable Stephen R. Creason, Judge
The Honorable Pauline A. Beeson, Magistrate

Trial Court Cause Nos.
49D16-2308-JD-6641
49D16-2309-JD-7769

Memorandum Decision by Judge Pyle

Judges Bailey and Crone concur.

Pyle, Judge.

Statement of the Case

[1] D.D. (“D.D.”) appeals his juvenile delinquency adjudication for Level 6 felony escape if committed by an adult.¹ D.D. argues that there is insufficient evidence to support his juvenile delinquency adjudication. Concluding that there is sufficient evidence to support D.D.’s juvenile delinquency adjudication for escape, we affirm the juvenile court’s judgment.

[2] We affirm.

Issue

Whether there is sufficient evidence to support D.D.’s juvenile delinquency adjudication.

Facts

[3] In August 2023, the State filed a petition alleging that D.D. was a delinquent child for committing acts that would constitute Level 6 felony criminal recklessness and Class A misdemeanor dangerous possession of a firearm if committed by an adult. The State also filed a petition to modify in another

¹ IND. CODE § 35-44.1-3-4.

open case against D.D. D.D. and the State entered into an agreement wherein D.D. agreed to admit to committing what would be criminal recklessness if committed by an adult and, in exchange, the State dismissed the dangerous possession of a firearm allegation and petition to modify in his other case. The agreement also provided that D.D. could be released with GPS monitoring. Later that month, the juvenile court held a hearing during which D.D. admitted to committing what would be Level 6 felony criminal recklessness if committed by an adult. The trial court accepted the agreement, took it under advisement, and ordered D.D. into the custody of his mother. The juvenile court also ordered that D.D. be placed under GPS monitoring.

[4] In September 2023, the State filed an additional petition alleging that D.D. was a delinquent child for committing an act that would constitute Level 6 felony escape if committed by an adult. Specifically, the State alleged that the probation department received both proximity and tamper alerts from D.D.'s GPS monitoring device, "indicating that [D.D.] removed his GPS anklet without Court authorization." (App. Vol. 2 at 70). The petition also alleged that when the probation department reached out to D.D.'s mother, D.D. had left the home. Five days later, on September 12, 2023, officers arrested D.D., and the State filed a petition in another cause number alleging that D.D. had

committed what would have been Class A misdemeanor resisting law enforcement if committed by an adult.²

- [5] The juvenile court held a factfinding hearing in October 2023 during which it heard the facts as set forth above. Additionally, Marion County Juvenile Probation Officer Emma Mount (“PO Mount”) testified that the probation department receives “tamper alerts” if the GPS monitoring device is “cut or damaged in some way.” (Tr. 46). PO Mount also testified that the probation department receives “proximity alerts” if the GPS monitoring device “is no longer touching the youth’s ankle.” (Tr. 46). PO Mount testified that the probation department received an alert from D.D.’s device on September 7, 2023. PO Mount further testified that the probation department had called D.D.’s mother. PO Mount testified that after the phone call, PO Mount went to D.D.’s home, and Mother gave the GPS monitoring device to PO Mount. PO Mount further testified that the device had been cut and that the device “could no longer be used.” (Tr. 50).
- [6] At the conclusion of the fact-finding hearing, the juvenile court determined that D.D. had committed the act of escape as alleged and entered a true finding for the allegation. In November 2023, the juvenile court held a dispositional hearing and awarded wardship of D.D. to the Department of Correction (“the DOC”) for an indeterminate term.

² The State dismissed this allegation at the conclusion of the October 2023 factfinding hearing.

[7] D.D. now appeals.

Decision

- [8] D.D. argues that there is insufficient evidence to support his juvenile delinquency adjudication for committing an act that would be Level 6 felony escape if committed by an adult. “In juvenile delinquency adjudication proceedings, the State must prove every element of the offense beyond a reasonable doubt.” *C.D.H. v. State*, 860 N.E.2d 608, 610 (Ind. Ct. App. 2007), *trans. denied*. When we review a challenge to the sufficiency of the evidence, we will neither reweigh the evidence nor judge the credibility of witnesses. *Id.* “We will affirm the adjudication if we conclude that evidence of probative value exists so that a reasonable factfinder could find the elements of the underlying crime proven beyond a reasonable doubt.” *Id.*
- [9] The escape statute, INDIANA CODE § 35-44.1-3-4(c)(2), provides that “[a] person who . . . knowingly or intentionally removes, disables, or interferes with the operation of an electronic monitoring device or GPS tracking device . . . commits escape, a Level 6 felony.” INDIANA CODE § 35-41-2-2(a) provides that a person engages in conduct “intentionally” if, “when he engages in the conduct, it is his conscious objective to do so.” INDIANA CODE § 35-41-2-2(b) provides that a person engages in conduct “knowingly” if, “when he engages in the conduct, he is aware of a high probability that he is doing so.” “Intent, being a mental state, can only be established by considering the behavior of the relevant actor, the surrounding circumstances, and the reasonable inferences to

be drawn therefrom.” *Richardson v. State*, 856 N.E.2d 1222, 1227 (Ind. Ct. App. 2006), *trans. denied*.

[10] D.D. specifically argues that the State failed to present sufficient evidence to show that D.D. knowingly or intentionally removed, disabled, or interfered with the operation of his GPS tracking device. We disagree.

[11] Our review of the record reveals that on September 7, 2023, the probation department received a tamper alert for D.D.’s GPS monitoring device. The probation department called D.D.’s mother. PO Mount went to D.D.’s home and retrieved the cut and non-functioning GPS monitoring device from D.D.’s mother. Five days later, officers found and arrested D.D. The reasonable inferences from this testimony are that D.D. had knowingly or intentionally removed, disabled, or interfered with the operation of his GPS tracking device. *Richardson*, 856 N.E.2d at 1227. D.D.’s arguments amount to a request to reweigh the evidence, which we will not do. *See C.D.H.*, 860 N.E.2d at 610. Therefore, we affirm the juvenile court’s juvenile delinquency adjudication.

[12] Affirmed.

Bailey, J., and Crone, J., concur.

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