

**IN THE COURT OF APPEALS OF IOWA**

No. 2-004 / 10-1241  
Filed February 1, 2012

**IN THE INTEREST OF A.D.J., Jr.,  
Minor Child,**

**A.D.J., Jr., Minor Child,**  
Appellant.

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Appeal from the Iowa District Court for Johnson County, Stephen C. Gerard II, District Associate Judge.

A juvenile appeals an order adjudicating him a delinquent for committing the crimes of participating in a riot and disorderly conduct, contending the State failed to prove all the elements of each of the crimes. **AFFIRMED.**

John G. Daufeldt of Daufeldt Law Firm, P.L.C., Conroy, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Janet M. Lyness, County Attorney, and Patricia Weir, Assistant County Attorney, for appellee State.

Considered by Vaitheswaran, P.J., and Tabor and Mullins, JJ.

**VAITHESWARAN, P.J.**

A teenager, Antonio Jr., appeals an order adjudicating him a delinquent for committing the crimes of participating in a riot and disorderly conduct. See Iowa Code §§ 723.1, 723.4 (2009). On appeal, Antonio contends the State failed to prove all the elements of each of the crimes.

***I. Participating in a Riot***

The juvenile court stated that the offense of participating in a riot “is committed when three or more persons assemble together in a violent manner, to the disturbance of others, and with any use of unlawful force by them or any of them against another person.” See *id.* § 723.1. The court further stated that “a person who willingly joins them or remains a part of a riot knowing or having reasonable grounds to believe that it is such, commits an aggravated misdemeanor.” See *id.*

Antonio contends the State failed to prove that a riot occurred or that he willingly joined in or remained a part of a riot. On our de novo review,<sup>1</sup> we disagree.

The record reflects that Antonio and five other friends, who were part of a rap group called the Hardbodies, drove from Cedar Rapids to Iowa City to hang out and watch movies at a girl’s home. Before long, two young men who were part of a group called the Broadway Goons and were not on friendly terms with

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<sup>1</sup> The State acknowledges that our review is de novo but asks that we change the standard to substantial evidence review. The Iowa Supreme Court recently reiterated that the standard is indeed de novo. *In re Z.S.*, 776 N.W.2d 290, 292 (Iowa 2009), *abrogated on other grounds by State v. Spates*, 779 N.W.2d 770 (Iowa 2010). We see no reason to deviate from this precedent.

the Hardbodies, came to the door and asked if the Cedar Rapids boys wanted to fight.

Antonio and the others agreed to engage in a fistfight at a nearby park. They walked the few blocks to the park, yelling and swearing along the way. On arriving at the street across from the park, they found a large congregation of Goons and Goon sympathizers. A member of Antonio's group named Chris had a gun. Someone in his group said, "Shoot the gun, shoot the gun." Chris fired a shot into the air. People dispersed, some running to nearby cars. Members of the Goons responded by firing shots at the cars.

A man who lived in the neighborhood and was camping in his backyard with his nine-year-old daughter testified that he heard several shots and heard youth fighting, yelling, and swearing. A veteran of two wars, he testified that the incident exacerbated his post-traumatic stress disorder. The incident also upset his daughter.

Notwithstanding this essentially undisputed evidence of what transpired, Antonio asserts "that the two groups did not come together in a violent manner." He is correct that the incident did not devolve into fisticuffs. However, gunshots were fired and, contrary to his assertion that Chris's shot peaceably ended the confrontation, that firing triggered retaliatory shots.

Based on this record, we conclude that the State proved the disputed elements, and the juvenile court appropriately adjudicated Antonio delinquent for participating in a riot.

## **II. Disorderly Conduct**

The juvenile court stated that

a person commits the crime of disorderly conduct when a person engages in fighting or violent behavior in any public place or makes any threatening gesture which a person knows or reasonably should know is likely to provoke a violent reaction by another.

See *id.* § 723.4(1), (3).

Antonio contends “there was no fight of any kind.” The juvenile court found otherwise, stating “an agreement was made to fight” and Antonio “and the other Hardbodies walked to the immediate vicinity of the park to engage in the fight.” The evidence supports these findings. Several witnesses testified that Antonio and his group agreed to “bang,” or fight, the Goons, rather than “squash,” or not fight them. Other witnesses testified that there was jumping, yelling, and swearing, and the volume was loud. And, as noted, a member of Antonio’s group fired the first gunshot, which triggered retaliatory shots.

Based on this record, we conclude the juvenile court appropriately adjudicated Antonio delinquent for engaging in disorderly conduct.

We affirm Antonio’s delinquency adjudication.

**AFFIRMED.**