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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2204**

In the Matter of the Welfare of: I. S. B., Child

**Filed July 11, 2011
Affirmed
Larkin, Judge**

Blue Earth County District Court
File No. 07-JV-10-1141

David W. Merchant, Chief Appellate Public Defender, Susan Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Lori A. Swanson, Attorney General, St. Paul, Minnesota; and

Ross E. Arneson, Blue Earth County Attorney, Casey M. Hardy, Assistant County Attorney, Mankato, Minnesota (for respondent)

Considered and decided by Wright, Presiding Judge; Connolly, Judge; and Larkin, Judge.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant argues that the evidence was insufficient to sustain the district court's finding that he was guilty of first-degree criminal damage to property. We affirm.

FACTS

On April 1, 2010, appellant I.S.B. was charged by delinquency petition with one count of first-degree criminal damage to property under Minn. Stat. § 609.595, subd. 1(3) (2010), and one count of disorderly conduct under Minn. Stat. § 609.72, subd. 1 (2010). A bench trial was held on November 16.

At trial, a surveillance video was admitted into evidence, which showed a young man spray-painting the south side of Mankato West High School during the early morning hours of March 7. The district court heard testimony from M.W., a high-school student who stated that he had heard rumors and saw a Facebook comment which led him to believe that I.S.B. was involved in the spray-painting incident at the school. M.W. went to school officials and offered to help identify the individual on the surveillance video. M.W. watched the video and concluded that the individual depicted was I.S.B. M.W. testified that he “grew up” with I.S.B. and was able to identify I.S.B. based on his build, walk, and attire. Another student, G.V., testified that he had learned about the spray-painting incident on the news and had also heard rumors that I.S.B. was involved. G.V. testified that he and I.S.B. had been friends for “a while.” G.V. viewed the surveillance video and identified I.S.B. based on his walk, height, and the style of jeans he was wearing.

Mankato Police Officer Tom Rother testified that, after M.W. and G.V. identified I.S.B. as the individual shown on the surveillance video, he went to I.S.B.’s house to speak with him. Rother spoke with I.S.B.’s father and obtained permission to speak with I.S.B. Rother informed I.S.B. that he could be charged with a crime based on the

evidence that had been gathered and asked if he would accompany Rother to the police station to give a formal statement. I.S.B. spoke privately with his father and then agreed to give a formal statement at the police station.

At the station, Rother read I.S.B. his *Miranda* rights and recorded their conversation. I.S.B. waived his right to an attorney and admitted that he vandalized the school. I.S.B. discussed the words that were spray-painted on the building, the color of the paint, where he obtained the paint, the clothing he wore, and how he got from his house to the high school. I.S.B. stated that he acted alone and wished to take full responsibility for his actions.

The district court found I.S.B. guilty of first-degree criminal damage to property and adjudicated him delinquent. The district court placed I.S.B. on probation and ordered him to pay restitution. This appeal follows.

D E C I S I O N

I.S.B. argues that, because his confession was inadequately corroborated, the evidence was insufficient to support the district court's finding of guilt and its attendant delinquency adjudication. "In reviewing the sufficiency of the evidence the court applies the same standard to bench and jury trials." *In re Welfare of M.E.M.*, 674 N.W.2d 208, 215 (Minn. App. 2004). This court's review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court must assume "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v.*

Moore, 438 N.W.2d 101, 108 (Minn. 1989). This is especially true when determining guilt depends mainly on the resolution of conflicting testimony. *State v. Pieschke*, 295 N.W.2d 580, 584 (Minn. 1980). The reviewing court will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

“A confession of the defendant shall not be sufficient to warrant conviction without evidence that the offense charged has been committed” Minn. Stat. § 634.03 (2010). “Minnesota cases have stated that the statute serves to discourage coercively acquired confessions and make admissions reliable.” *In re Welfare of C.M.A.*, 671 N.W.2d 597, 601 (Minn. App. 2003). “But the statute also serves the more modest objective [of] protecting against the risk of conviction for a crime that never occurred.” *Id.* (quotation omitted). “Minn. Stat. § 634.03 represents a codification of the requirement that the *corpus delicti*, or the ‘body of the crime,’ be established by evidence independent of a confession.” *Id.* “Thus, the statute requires that the corroborating evidence show the harm or injury and that it was occasioned by criminal activity; it need not show that the defendant was the guilty party because the confession itself provides that link.” *Id.* “The requirement has also been read to require the state to produce enough evidence to identify [a] defendant and to bolster and substantiate [his or her] own admissions.” *Id.* at 601-02 (quotation omitted).

Here, the charged crime was captured on videotape and the damage was documented. The caselaw demonstrates that this evidence, along with I.S.B.’s

confession, is enough to sustain the conviction. *See id.* Moreover, there was sufficient evidence to “bolster and substantiate” I.S.B.’s confession. The surveillance video depicted a young man with a height and build similar to that of I.S.B. And two individuals who are familiar with I.S.B. testified that they were certain that the person in the video was I.S.B. This evidence provided a solid basis for the district court to conclude that I.S.B.’s confession was reliable. In addition, the district court stated:

[T]here is no showing whatsoever in the transcript, from the testimony of the juvenile, from the testimony of his father, to suggest that Officer Rother coerced or in any manner inappropriately misled or in some manner, forced this confession . . . [T]here’s nothing in any of this that begins to suggest anything. My goodness, he comes to the boy’s house, his father is there, it’s like a casual Sunday afternoon conversation. He’s invited to come down to the station. He and his father . . . talk about it and they say, okay and the boy goes off with the officer. Now, where is the coercion?

The record indicates that I.S.B.’s confession was reliable and was not coercively acquired. And contrary to I.S.B.’s contention, the state was not required to prove the identity of the person who vandalized the school, beyond a reasonable doubt, by evidence independent of I.S.B.’s confession. Because it is undisputed that the crime occurred and the evidence was adequate to “bolster and substantiate” I.S.B.’s confession, the evidence was sufficient to sustain the district court’s finding of guilt and its attendant delinquency adjudication.

Affirmed.

Dated:

Judge Michelle A. Larkin