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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-594**

In the Matter of the Welfare of: T. T. M., Child

**Filed October 17, 2011  
Affirmed  
Larkin, Judge**

Dakota County District Court  
File No. 19HA-JV-09-1924

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

James Backstrom, Dakota County Attorney, Pauline Halpenny, Assistant County Attorney, Hastings, Minnesota (for respondent)

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

**UNPUBLISHED OPINION**

**LARKIN**, Judge

Appellant, a juvenile, challenges the district court's finding that the state proved, beyond a reasonable doubt, that she committed the offenses of third- and fifth-degree assault. Because the district court, acting with due regard for the presumption of

innocence and the requirement of proof beyond a reasonable doubt, could reasonably have concluded that appellant committed the offenses, we affirm.

## **FACTS**

The state filed a delinquency petition alleging that appellant T.T.M. had committed the offenses of first-, third-, and fifth-degree assault against M.P.S. Appellant denied the allegations, and the district court held a bench trial. The evidence at trial showed that on May 23, 2010, appellant attended a birthday party in Lakeville. During the party, a verbal altercation ensued between appellant and another girl. Witness M.S. testified that she saw appellant walk over to M.P.S. and strike M.P.S. on the head with a vodka bottle. M.P.S. fell back onto a picnic table, bleeding from her forehead. Appellant left the party immediately following the altercation, and M.P.S. was taken to a hospital. At trial, the district court received a photographic exhibit showing a large, gaping wound on M.P.S.'s forehead. M.S. provided the only testimony regarding the source of M.P.S.'s head injury: M.P.S. did not testify at trial.

The district court dismissed the first-degree assault charge on the state's motion. But the district court found that the state proved the allegations of third- and fifth-degree assault beyond a reasonable doubt. The district court expressly credited M.S.'s testimony that appellant hit M.P.S. on the head with a vodka bottle. This appeal follows.

## **D E C I S I O N**

“On appeal from a delinquency-petition determination concluding that each of the elements have been proved beyond a reasonable doubt, an appellate court is limited to ascertaining whether, given the facts and legitimate inferences, a factfinder could

reasonably make that determination.” *In re Welfare of A.A.M.*, 684 N.W.2d 925, 927 (Minn. App. 2004) (quotation omitted), *review denied* (Minn. Oct. 27, 2004). “We are required to view the record in the light most favorable to the determination and assume that the factfinder believed the testimony supporting the determination and disbelieved any contrary evidence.” *In re Welfare of S.M.J.*, 556 N.W.2d 4, 6 (Minn. App. 1996). The reviewing court will not disturb the determination if the fact-finder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *State v. Eller*, 780 N.W.2d 375, 380 (Minn. App. 2010), *review denied* (Minn. June 10, 2010).

The state was required to prove that appellant intentionally inflicted bodily harm. *See* Minn. Stat. §§ 609.223, subd. 1 (2010) (defining third-degree assault); 609.224, subd. 1(2) (2010) (defining fifth-degree assault). Third-degree assault includes an additional element: the infliction of “substantial bodily harm.” Minn. Stat. § 609.223, subd. 1. “Substantial bodily harm” includes “bodily injury which involves a temporary but substantial disfigurement.” Minn. Stat. § 609.02, subd. 7a (2010). The district court found that appellant intentionally inflicted bodily harm on M.P.S. by hitting her in the head with a vodka bottle. This finding is supported by M.S.’s trial testimony, which the district court found to be credible. The district court further found that M.P.S. suffered substantial bodily harm “in the form of a large gaping wound on her forehead.” This finding is supported by the photographic exhibit showing M.P.S.’s injury.

Appellant contends that the district court unreasonably relied on M.S.’s uncorroborated testimony to find her guilty. But “a conviction may rest on the testimony of a single credible witness.” *State v. Miles*, 585 N.W.2d 368, 373 (Minn. 1998). And it is the “exclusive role” of the fact-finder to determine witness credibility. *A.A.M.*, 684 N.W.2d at 927. Thus, this court defers to the district court’s express finding that “[M.S.’s] testimony [was] credible.” And because the district court, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably have concluded that appellant was guilty of third- and fifth-degree assault, we affirm.

**Affirmed.**

Dated:

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Judge Michelle A. Larkin