

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA06-586

NORTH CAROLINA COURT OF APPEALS

Filed: 20 February 2007

IN THE MATTER OF:

R.G.

Wayne County
No. 05 J 18

Appeal by respondent juvenile from orders entered 5 January 2006 by Judge Les Turner in District Court, Wayne County. Heard in the Court of Appeals 13 February 2007.

Attorney General Roy Cooper, by Assistant Attorney General Brenda Eaddy, for the State.

Michelle FormyDuval Lynch for respondent-appellant

WYNN, Judge.

This appeal arises from adjudication and disposition orders finding Respondent Juvenile delinquent for assault inflicting serious bodily injury.

On appeal, while Respondent argues the evidence was insufficient to support the adjudication of delinquency as a matter of law, he has failed to preserve this issue for appellate review. The record shows that although Respondent moved to dismiss at the close of the State's evidence, he failed to renew his motion after presenting his evidence. He is therefore "precluded from challenging the sufficiency of the evidence presented at trial."

In re Davis, 126 N.C. App. 64, 66, 483 S.E.2d 440, 442 (1997); see also N.C. R. App. P. 10(b)(3).

Respondent also contends the trial court erred by failing to consider his testimony, which he alleges raised the issue of self-defense, when it adjudicated him to be delinquent. In a case that "does not involve a jury, as in a delinquency case, the trial court is to consider the evidence of self-defense and, if it finds the evidence persuasive, enter a finding that the allegations of the petition are 'not proved.'" *In re Wilson*, 153 N.C. App. 196, 198, 568 S.E.2d 862, 863 (2002). Here, after adjudicating Respondent to be delinquent, the trial court stated to Respondent, "Even if I believe your scenario you took it a little bit too far." Thus, the trial court considered Respondent's testimony which he contends raised the issue of self-defense.

In sum, we uphold the adjudication and disposition orders respectively finding Respondent delinquent and placing him in a supervised day program with probation for twelve months.

No error.

Judges ELMORE and GEER concur.

Report per Rule 30(e).