

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA09-1383

NORTH CAROLINA COURT OF APPEALS

Filed: 20 July 2010

In the Matter of:

J.T.H.

Guilford County
07 J 615

Appeal by defendant from order entered 22 May 2009 by Judge Michelle Fletcher in Guilford County District Court. Heard in the Court of Appeals 13 May 2010.

Mary McCullers Reece for defendant.

Attorney General Roy Cooper, by Assistant Attorney General Marc X. Sneed, for the State.

ELMORE, Judge.

J.T.H. (defendant) was adjudicated delinquent on 22 May 2009 for one count each of possession of marijuana, possession of a firearm by a minor, carrying a concealed weapon, possession of drug paraphernalia, felonious breaking and entering, trespassing, and injury to real property, as well as four counts of tampering with a motor vehicle. Defendant made an oral motion to dismiss in open court, and the motion was denied. Defendant appeals that ruling as it relates to the charges of felonious breaking and entering, tampering with a motor vehicle, trespassing, and injury to real property.

Defendant's sole argument to this Court is that the State did not present substantial evidence of each element of the crimes; this is a misstatement of our standard of review. Defendant is correct that, in an adjudicatory hearing, "[t]he allegations of a petition alleging the juvenile is delinquent shall be proved beyond a reasonable doubt." N.C. Gen. Stat. § 7B-2409 (2009). However, defendant here argues that the court erred in denying his motion to dismiss; in that context, regardless of whether the defendant is a juvenile or an adult, this Court considers whether sufficient evidence was presented of defendant's guilt. *See In re S.M.*, 190 N.C. App. 579, 582, 660 S.E.2d 653, 655 (2008) (applying this standard to motion to dismiss in a juvenile delinquency context).

The trial court in considering such motions is concerned only with the sufficiency of the evidence to carry the case to the jury and not with its weight. The trial court's function is to test whether a *reasonable inference* of the defendant's guilt of the crime charged may be drawn from the evidence.

State v. Powell, 299 N.C. 95, 99, 261 S.E.2d 114, 117 (1980) (citations omitted). We consider the evidence presented in the light most favorable to the State. *Id.*

The charges relating to defendant's appeal stem from vandalism that occurred on 6 April 2009 at Grimsley High School in Guilford County. At the adjudicatory hearing, the court heard testimony that, at 6:30 a.m. on 6 April, Principal Anna Brady discovered that someone had spray painted school buses, a police car, and various school buildings using a fluorescent orange paint kept in the field house of the school. Officer Mark W. Ridgill testified that the

graffiti consisted of at least three nicknames, the most prevalent of which was "Jay Reesie." Officer Ridgill testified that "Jay Reesie" was defendant's nickname. During his investigation, Officer Ridgill interviewed two other students, J.H. and T.B., who had been with defendant the night before the vandalism occurred; they both told Officer Ridgill that they had received text messages from defendant at 5:30 that morning "telling [them] to look for 'Jay Reesie' all over the school that particular morning." The students also both told Officer Ridgill that they knew "Jay Reesie" to be defendant's nickname. Another student, J.B., also received a text message from defendant at 5:30 that morning from a number identified as defendant's; it stated "Look for 'Jay Reesie' on some s--- at skoll" [sic]. J.B. told Officer Ridgill that she knew "Jay Reesie" to be defendant's nickname. Defendant, J.H., T.B., and two other students had been together at the house J.H. and T.B. shared until 1:00 a.m. or 2:00 a.m. the night before the vandalism.

Given the testimony presented at trial regarding defendant's nickname and the texts sent to J.H., T.B., and J.B., the State offered sufficient evidence from which a reasonable inference of defendant's guilt could be drawn. As such, we affirm the order of the district court.

Affirmed.

Judges BRYANT and ERVIN concur.

Report per Rule 30(e).