

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of O.R., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20060983-CA
)	
State of Utah,)	F I L E D
)	(September 20, 2007)
Appellee,)	
)	2007 UT App 307
v.)	
)	
O.R.,)	
)	
Appellant.)	

Third District Juvenile, Tooele Department, 969465
The Honorable Christine S. Decker

Attorneys: Wayne A. Freestone, Sandy, for Appellant
Mark L. Shurtleff and Ryan D. Tenney, Salt Lake City,
for Appellee

Before Judges Greenwood, Billings, and Davis.

PER CURIAM:

O.R. appeals the adjudication order of the juvenile court, finding him guilty of third degree aggravated assault. O.R. claims that there was insufficient evidence to support the adjudication.

When reviewing a juvenile court's decision for sufficiency of the evidence, we must consider all the facts, and all reasonable inferences which may be drawn therefrom, in a light most favorable to the juvenile court's determination, reversing only when it is against the clear weight of the evidence, or if [we] otherwise reach a definite and firm conviction that a mistake has been made.

In re V.T., 2000 UT App 189, ¶8, 5 P.3d 1234 (quotations and citation omitted). We grant such deference because of the juvenile court's "'superior position to judge parties' and witnesses' 'credibility and personality.'" In re T.M., 2006 UT App 435, ¶14, 147 P.3d 529 (citation omitted).

A person commits third degree aggravated assault "if he commits assault as defined in Section 76-5-102 and he . . . uses a dangerous weapon as defined in Section 76-1-601." Utah Code Ann. § 76-5-103(1)(b) (2003). Assault, in turn, may be "a threat accompanied by a show of immediate force or violence, to do bodily injury to another." Id. § 76-5-102(1)(b). The State must prove each of the elements in the statute beyond a reasonable doubt. In re V.T., 2000 UT App 189 at ¶9.

The juvenile court made the following findings: (1) O.R. "had a knife in his hand."; (2) "Mrs. Garrard saw the knife. She backed up. She saw the blade. She was afraid. . . . She feared for her safety."; (3) Susan Garrard told O.R., "You don't want to stab me."; and (4) "Mr. Garrard saw [O.R.] reach for the knife. He heard [O.R.] make a threat, 'Get out of my face.'" O.R. claims that these findings are insufficient to establish third degree aggravated assault. More particularly, he claims that the evidence fails to demonstrate intent to threaten or that he showed immediate force or violence. However, taken together, these findings establish all necessary elements of the offense. O.R. showed the knife to the Garrards and told them to "get out of his face." This certainly implies to a reasonable person that O.R. intended to use the knife if the Garrards did not do as he wished. Further, the showing of the knife coupled with the statement constituted an immediate show of force or violence. See State v. Brown, 835 P.2d 851, 860 (Utah 1992) (concluding that defendant who raised a wrench during the assault of a victim, and asked the second victim if he wanted some too, committed assault). Thus, the evidence and reasonable inferences taken therefrom support the juvenile court's determination that O.R. threatened the Garrards while making a showing of immediate force or violence with the use of a dangerous weapon.

O.R. also argues that the Garrards' testimony was so inconsistent that a reasonable person would have had to entertain reasonable doubt. However, as stated above, this court grants substantial deference to the juvenile court's findings due to its superior position in judging credibility and personality. See In re T.M., 2006 UT App 435 at ¶14. This is especially true in findings pertaining to the credibility of witnesses. See State v. Workman, 852 P.2d 981, 984 (Utah 1993) ("Ordinarily, a reviewing court may not reassess the credibility or re-weigh the evidence, but must resolve conflicts in favor of the jury verdict."). The juvenile court had the benefit of observing the

demeanor of each witness during their testimony. After viewing the witnesses and hearing counsel's argument concerning the inconsistencies, the juvenile court specifically addressed the inconsistencies and found two to be inconsequential, and implicitly resolved the others through its express findings. In reviewing the transcript, we cannot say that the juvenile court's findings in this regard were against the clear weight of the evidence, nor can we otherwise say that the inconsistencies create a firm conviction in this court that a mistake has been made. Accordingly, the evidence was sufficient to support the juvenile court's adjudication.

Affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

James Z. Davis, Judge