

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,  
Respondent,

v.

D.V.C.,  
Appellant.

No. 39886-9-II

UNPUBLISHED OPINION

Van Deren, J. — DVC<sup>1</sup> appeals his Clark County juvenile court adjudication of residential burglary, challenging the sufficiency of the evidence. His statement of additional grounds for review (SAG) offers additional argument on that issue. We affirm.<sup>2</sup>

**FACTS**

The residential burglary charge arose from an incident that occurred in the early morning of July 11, 2009, in Vancouver, Washington. Clark County Deputy Sheriff James Buckner responded to a dispatch report that there were three people possibly engaged in vehicle prowling. He parked his vehicle several blocks away from the area reported and began a foot patrol. As he

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<sup>1</sup> Under RAP 3.4, this court may change the title of the case to a juvenile's initials. Our ruling uses initials for juveniles to protect their rights to confidentiality.

<sup>2</sup> A commissioner of this court considered this matter pursuant to RAP 18.14 and referred it to a panel of judges.

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walked down the street, he heard noises coming from the upstairs of one of the houses but he did not see anyone on the street.

Buckner returned to his patrol car and was preparing to leave when he received a second notification from dispatch, advising that the complainant had made a second call reporting that some minors had possibly entered a residence in the area that was unoccupied for the weekend. Buckner walked to the front door of the house that he had observed earlier and looked in the windows. He could hear people moving about upstairs and drawers opening and closing. He called for assistance and waited on the front porch.

While he was standing on the porch, an adolescent male, later identified as YA, came to the door and looked out through the door's arched window. He looked directly at Buckner, who shined his flashlight on YA's face, identified himself as a deputy sheriff, and told YA not to move. YA ducked down and ran toward the back of the house. Almost immediately, Buckner saw a second person, later identified as DVC, run down the hallway toward the back of the house. Buckner saw only DVC's back, but noted that he was wearing a long sleeved brown plaid shirt with a hood, and that he had long, curly, light brown hair.

Buckner ran around the residence to the back yard. The rear door was open and he could hear people running through brush at the edge of the back yard about 15 to 20 feet away. He requested the aid of a K-9 canine unit.

After other officers arrived, Buckner went through the residence. He found that many drawers and cabinets in the master bedroom had been opened and the contents disturbed. A video cassette player and a carton of cigarettes were lying on the floor.

Meanwhile, Clark County Deputy Sheriff Seth Brannan and his dog began tracking in the

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area beyond the back of the residence. They went through blackberry bushes and across a fence. When they came to a paved roadway, the dog acted as though he had lost the track, so they backtracked and reestablished the track in a wooded area east of the roadway. They found DVC and YA hiding under some blackberry bushes. Brannan took the two juveniles into custody, and Buckner identified them at the scene.

At trial, the deputies testified as stated above. YA pleaded guilty to residential burglary two months before this trial, but he testified for the defense in DVC's case. He denied that either he or DVC had entered any residence on the day of the incident. He said that he and DVC had spent the day in Oregon City; they returned to Vancouver that night and met two of DVC's friends. They were in the neighborhood where the burglary occurred because that was where DVC usually parked his car when he slept in it. For the most part, they spent the time talking on the long private driveway close to DVC's parked car. At some point, YA lost track of DVC's friends. About one half an hour later, he heard yelling and banging. DVC "freaked out," and YA ran after him. Report of Proceedings (RP) at 94. He said he ran because he knew the police were there, and he was a "runaway." RP at 96.

The juvenile court adjudicated DVC as charged.

#### ANALYSIS

DVC argues that there was insufficient evidence to prove that he was one of the burglars. He asserts that the State did not produce enough corroborative evidence to support the dog tracking evidence. In his SAG, he asserts that the dog tracking evidence indicated that a third person had fled the scene, and he argues that it was the third person Buckner saw inside the residence.

“A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.” *State v. Turner*, 103 Wn. App. 515, 520, 13 P.3d 234 (2000) (quoting *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992)). In reviewing such a claim, we recognize that circumstantial evidence is as reliable as direct evidence. *Turner*, 103 Wn. App. at 520. We view the evidence in the light most favorable to the State and determine whether it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Scoby*, 117 Wn.2d 55, 61, 810 P.2d 1358, 815 P.2d 1361 (1991).

Dog tracking evidence, standing alone, provides insufficient identification of the defendant to sustain a conviction, thus some corroborative evidence is necessary to alleviate the dangers of misidentification. *State v. Loucks*, 98 Wn.2d 563, 567-69, 656 P.2d 480 (1983). Such evidence need not clearly connect the accused with the offense. *See State v. Ellis*, 48 Wn. App. 333, 335, 738 P.2d 1085 (1987).

Here, the corroborative evidence included: (1) Buckner’s identification of DVC’s companion, based on actually seeing him face to face; (2) Buckner’s identification of DVC, based on the similarity of clothing and hair; and (3) the fact that the two juveniles were hiding in the brush just a quarter mile from the burglarized residence. Even without the dog tracking evidence, Buckner’s identification was sufficient to support the conviction.

As to DVC’s SAG argument, assuming there were three juveniles involved in the burglary, the fact that one may not have been apprehended does not suggest that the two who were caught were not guilty. Likewise, YA’s testimony that one of DVC’s friends also had light brown hair and may have been wearing a checkered shirt is not determinative. The trier of fact was not required to accept that testimony, and its credibility determination is not subject to review. *State*

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*v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

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Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

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Van Deren, J.

We concur:

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Quinn-Brintnall, J.

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Penoyar, C.J.