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2012 IL App (3d) 100847-U

Order filed August 13, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

<i>In re</i> Darius W.,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
a Minor)	Peoria County, Illinois,
)	
(The People of the State)	
of Illinois,)	
)	Appeal No. 3-10-0847
Petitioner-Appellee,)	Circuit No. 10-JD-261
)	
v.)	
)	
Darius W.,)	Honorable
)	Chris L. Fredericksen,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices Carter and Wright concurred in the judgment.

ORDER

- ¶ 1 *Held:* The evidence was sufficient to establish that juvenile committed mob action by kicking victim where a witness testified that he saw juvenile kick victim and the witness's testimony was credible.
- ¶ 2 Respondent, Darius W., was adjudicated delinquent upon a finding that he committed mob

action (720 ILCS 5/25-1(a)(1) (West 2010)) by punching and kicking Laronz M. On appeal, he claims that the State failed to prove him guilty beyond a reasonable doubt. We affirm.

¶ 3 The State filed a petition for adjudication of wardship claiming respondent, who was 16 years old, disturbed the public peace by the use of force and violence in that he punched and kicked Laronz M., causing bodily injury to Laronz, while acting without authority and together with others.

¶ 4 At a bench trial, Tyreese D., 16 years old, testified that he and his friend, Laronz, were walking to Tyreese's house when they saw Christopher J. and another boy named Anthony get out of a car. Christopher looked at Anthony, motioned, and then approached Tyreese. Tyreese testified that he had problems with Christopher in the past, so he knew that Christopher was coming for him. Tyreese realized that he did not have time to get to his house and told Laronz to run. Anthony came up behind Tyreese, and Christopher, along with other boys who joined him from the alley, approached Tyreese from the front. Respondent, Jacobe O. and Trey F. were among the members of the group who joined Christopher.

¶ 5 Christopher asked Tyreese, "[Y]ou gonna [sic] make me chase you?" and started fighting with Tyreese. Tyreese again told Laronz to run away. As Laronz ran, respondent, Jacobe and Trey chased him across the street. Tyreese continued to fight with Christopher and Anthony. As they were fighting, Tyreese saw Laronz balled up on the ground. Four people were kicking him, including respondent. Tyreese witnessed respondent kick Laronz in the torso twice.

¶ 6 After several minutes, a neighbor came out of his house with a gun screaming at respondent and the others to go away. All the boys scattered in different directions. Tyreese ran over to help Laronz. Laronz was crying and staggering and had blood on his mouth, nose and hands.

¶ 7 Laronz testified that he remembered walking back to Tyreese's house and that, as they were

walking, someone approached Tyreese and said, "[Y]ou had me running." He recalled walking away as Tyreese and the other boy started swinging at each other. At that point, a large group had gathered. He did not know respondent and did not know if respondent was part of the group. Laronz testified that he never heard Tyreese tell him to run but walked away from the altercation to avoid drama. Laronz recalled that, as he walked away, one of the boys approached him and started talking, but he could not remember what he said. He did not know if the boy he talked to was one of the boys fighting with Tyreese. He thought the boy came out of nowhere, but he also said that the boy come out of the group of people watching the fight.

¶ 8 The next thing Laronz remembered was waking up on the ground. He had blood on his shirt and lip, and Tyreese was helping him up. He felt dizzy, and he did not really know what he was doing or saying.

¶ 9 Officer Derek Harwood arrived at the scene shortly after the fight ended. He testified that both Tyreese and Laronz told him that they had been "jumped" by several males. Laronz had blood on his T-shirt and seemed dazed and confused. Laronz told Harwood that two males came out of the alley and attacked Tyreese and that Tyreese told him to run. When Laronz ran, three guys jumped on him and started punching and kicking him. Laronz told Harwood that he did not know the boys and would not be able to identify them.

¶ 10 Harwood apprehended respondent and Jacobe O. in the alley nearby. As Harwood placed handcuffs on respondent, respondent said "what are we being arrested for, we didn't jump anybody." Harwood advised respondent of his *Miranda* rights but did not question him. Respondent then said that there was a fight, but denied punching or kicking the victim.

¶ 11 Respondent testified that he heard Christopher yell at Tyreese "you gonna make me run" and

then they both starting fighting. Laronz was still near the group when the fight started. At some point, Laronz left, but respondent did not see him leave. Respondent stated that he did not strike or kick anyone.

¶ 12 Respondent agreed that Officer Harwood did not ask any questions when he handcuffed respondent. Respondent voluntarily stated that he knew they were being arrested for the fight, and Harwood responded that he had not mentioned a fight. Respondent testified that he ran because he was on probation, and he did not want to get in trouble.

¶ 13 The trial court found that Tyreese's testimony was credible and that respondent's testimony was not. The court concluded that the allegations of mob action against Laronz had been proven beyond a reasonable doubt. Respondent was adjudicated delinquent, made a ward of the court, and ordered to serve two years' probation.

¶ 14 ANALYSIS

¶ 15 Respondent argues that Tyreese's testimony was insufficient to establish his guilt beyond a reasonable doubt.

¶ 16 A reviewing court will not set aside a conviction on the ground of insufficient evidence, unless “the evidence is so palpably contrary to the verdict or judgment that it is unreasonable, improbable or unsatisfactory and thus creates a reasonable doubt of guilt.” *People v. Witherspoon*, 216 Ill. App. 3d 323, 333 (1991). A trial court's determination will be reversed on appeal only if the reviewing court finds, after viewing the evidence in the light most favorable to the prosecution, that no rational trier of fact could have found the essential elements of the offense were proven beyond a reasonable doubt. *In re W.C.*, 167 Ill. 2d 307 (1995).

¶ 17 In a bench trial, it is the trial court's responsibility to resolve disputes, assess the credibility

of the witnesses and determine the weight to be given their testimony. *People v. Spann*, 332 Ill. App. 3d 425 (2002). A reviewing court will not reassess the witness's credibility or reweigh the testimony. *Spann*, 332 Ill. App. 3d at 445.

¶ 18 Conflicts in testimony do not create reasonable doubt *per se*. *People v. Brooks*, 187 Ill. 2d 91 (1999). Minor inconsistencies in witness testimony is insufficient to raise a reasonable doubt where the conviction is founded on substantial and credible evidence. *People v. Dockery*, 248 Ill. App. 3d 59 (1993). The positive, credible testimony of one witness is sufficient to convict beyond a reasonable doubt. *People v. Baldwin*, 256 Ill. App. 3d 536 (1994).

¶ 19 Here, respondent was charged with mob action. The Criminal Code of 1961 (720 ILCS 5/1-1 *et seq.* (West 2010)) defines mob action as "the knowing or reckless use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law." 720 ILCS 5/25-1(a)(1) (West 2010). Tyreese's testimony at trial was sufficient to prove these elements beyond a reasonable doubt. Tyreese testified that Laronz ran away from the fight. As Laronz ran away, respondent and a group of boys chased him. Tyreese further testified that he saw respondent kick Laronz twice while Laronz was lying on the ground and that the dispute only ended when a neighbor came out with a gun and told everyone to get away from the victim. His testimony established that respondent, acting with others and without authority, used violence to disturb the public peace.

¶ 20 Respondent argues that Tyreese's testimony should be disregarded because it was not credible and conflicted with Laronz's account of the incident. The trial court found Tyreese's testimony to be credible, and we are not in a position to reweigh the court's decision. Although Laronz did not agree with all of the events to which Tyreese testified, Laronz admitted that he could not recall a

number of things that occurred during the fight because he passed out. Thus, any minor inconsistency between Tyreese's and Laronz's testimony did not diminish the credibility of Tyreese's testimony as a whole. In this case, respondent has not met his burden to show that no rational trier of fact could have found the essential elements of the offense were proven beyond a reasonable doubt. Therefore, we will not disturb the judgment of the trial court.

¶ 21

CONCLUSION

¶ 22 The judgment of the circuit court of Peoria County is affirmed.

¶ 23 Affirmed.