

No. 1-11-1994

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> ANDREW R., A MINOR)	Appeal from the
(THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
)	Cook County.
Petitioner-Appellee,)	
)	
v.)	No. 11 JD 50007
)	
ANDREW R., a minor,)	Honorable
)	Richard F. Walsh,
Respondent-Appellant).)	Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held:* The State proved respondent delinquent of unlawful restraint where the respondent was not merely present, but stood in front of the victim and blocked his progress while another person attempted to go through the victim's pockets.

¶ 2 Following a bench trial, respondent, Andrew R., was found delinquent of unlawful restraint and sentenced to 18 months' probation. Respondent was found not guilty of attempted robbery. Defendant has appealed contending that the State failed to prove him delinquent beyond a reasonable doubt. We affirm.

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¶ 3 According to the State's theory of the case, respondent and two others attempted to rob the victim as he walked home from school near 96th and Kedzie in Evergreen Park. Respondent argued that he was merely present during the attempted robbery, did not participate as a principal, and was not accountable for the actions of his alleged companions.

¶ 4 At trial, Devonte Hill testified that he was 18 years old and a student at Evergreen Park Community High School. On November 8, 2010, he was walking home from school along Kedzie. Somewhere between 95th and 96th streets he encountered three young men. Hill identified respondent as one of those young men. One man, dressed in a blue coat and later identified as Demond Fony, stopped Hill and attempted to go through his pockets. Hill pushed the man away and crossed the street. When asked to describe what respondent did during the encounter Hill replied: "He was standing right behind the young man in blue. And he was also blocking my path so I could not get away."

¶ 5 After Hill pushed the first man away, Hill ran across the street, and walked away. The men followed Hill, and Hill heard defendant say that he had a gun and "was going to get me basically." Hill called the police and waited at a nearby drug store. The police arrived shortly thereafter and arrested respondent and Fony. Hill identified the men in a show up, and they were transported to the police station.

¶ 6 On cross-examination, Hill denied telling the police that he had been threatened by Fony. Hill testified that he told the police he was threatened by respondent.

¶ 7 Evergreen Park police officer Matthew Himmilmann testified that he responded to a robbery dispatch. Himmilmann met Hill at a drug store and took him to where two suspects had been detained. Hill identified the suspects as the men who attempted to rob him.

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¶ 8 On cross-examination, Himmilmann testified that Hill did not specify who threatened him as he ran away. Himmilmann admitted that in his police report he wrote that Hill told him that Fony threatened him as he ran away.

¶ 9 Following arguments by the parties, the trial court found respondent not guilty of attempted robbery, but guilty of unlawful restraint. The trial court subsequently sentenced respondent to 18 months' probation. Respondent timely appeals.

¶ 10 Respondent contends that the State failed to prove him guilty beyond a reasonable doubt. No person, adult or juvenile, may be convicted of a crime "except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *In re Winship*, 397 U.S. 358, 364 (1970); see also *People v. Austin M.*, 2012 IL 111194, ¶ 76 ("In fact, with the exception of the right to a jury trial, the fourteenth amendment to the United States Constitution extends to delinquent minors all of the basic rights enjoyed by criminal defendants.") When reviewing the sufficiency of the evidence, the relevant question is whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Flynn*, 2012 IL App (1st) 103687, ¶ 22.

¶ 11 "A person commits the offense of unlawful restraint when he or she knowingly without legal authority detains another." 720 ILCS 5/10-3 (West 2010). There is no requirement for the use of physical force. See *People v. Warner*, 98 Ill. App. 3d 433, 436 (1981). And the detention need only be brief. See *People v. Jones*, 93 Ill. App. 3d 475, 479 (1981). Although respondent cites *People v. Satterthwaite*, 72 Ill. App. 3d 483 (1979) and suggests that he is not guilty because he did not touch Hill, we find no language in *Satterthwaite*, or any of the other cases we have reviewed, supporting such an interpretation of the unlawful restraint statute. To the

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contrary, the cases have consistently held that no force is required. See, e.g., *People v. Bowen*, 241 Ill. App. 3d 608, 628 (1993) (collecting cases).

¶ 12 Respondent argues that he was standing behind Fony and was merely present for the unlawful restraint. Respondent reasons that he could not block Hill's path if he was standing behind Fony. This argument is directly counter to Hill's testimony that respondent was standing behind Fony *and* blocking his path. The trial court was in the best position to determine the credibility of this testimony and we cannot say that no rational trier of fact could have found that respondent was restraining Hill. Therefore, we conclude that the State did not fail to prove respondent delinquent beyond a reasonable doubt. See *Flynn*, 2012 IL App (1st) 103687, ¶ 22. Because we have found that respondent was delinquent based on his own actions, we need not consider the parties' arguments regarding accountability.

¶ 13 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 14 Affirmed.