

NOTICE  
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2013 IL App (4th) 120549-U

NO. 4-12-0549

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**  
October 22, 2013  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

In re: SHAUN B., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Vermillion County
v.	)	No. 12JD22
SHAUN B.,	)	
Respondent-Appellant.	)	Honorable
	)	Michael D. Clary,
	)	Judge Presiding.

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PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.  
Justice Harris concurred in the judgment.  
Justice Appleton dissented.

**ORDER**

¶ 1     *Held:* The evidence was sufficient to find respondent guilty of the offense charged in the delinquency petition.

¶ 2             In January 2012, the State filed a petition for adjudication of wardship against respondent, Shaun B., born September 6, 1999, alleging that he was delinquent in that he committed the offense of criminal damage to property (720 ILCS 5/21-1(1)(a) (West 2010)). Following an April 2012 adjudicatory hearing, the trial court found respondent guilty of the offense alleged in the State's petition. In June 2012, following a dispositional hearing, the court entered an order of continuance under supervision for a period of one year. See 705 ILCS 405/5-615 (West 2012). The court further ordered respondent to pay \$90 restitution for which he was jointly and severally liable.

¶ 3 Respondent appeals the court's finding that he was guilty of criminal damage to property (See *In re J. N.*, 91 Ill. 2d 122, 435 N.E.2d 473 (1982)), arguing that the evidence was insufficient to prove him guilty beyond a reasonable doubt. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 The following evidence was presented at the April 2012 adjudicatory hearing on the State's January 2012 petition for adjudication of wardship.

¶ 6 Scott Burgess testified that at approximately 10 p.m. on December 17, 2011, he was asleep at his home in Danville, Illinois, when he was awakened by a loud noise caused by an object hitting his house. He looked out the window of his bedroom and saw two boys in his backyard, crouched behind his van. He watched one of the boys pick something up off the ground and throw it toward the house. He heard a second object hit the side of his house.

¶ 7 Burgess then got dressed, and as he left his bedroom to investigate, he heard a third object strike the side of his house. He walked downstairs and asked his son to call the police. When he stepped outside, he saw respondent in his front yard. When Burgess started to approach, respondent fled the scene along with two other boys.

¶ 8 Burgess eventually caught up with one of the boys, Davae R. He told Davae that he heard the boys throw the rocks at his house. Davae then punched Burgess. While Burgess was detaining Davae, respondent attempted to flag down cars and knock on doors in the neighborhood. Respondent was very angry and tried to call his parents and the police. Respondent told Burgess "he was going to get his dad's guns" and "on my mama's life, I'm going to kill you."

¶ 9 When Burgess asked respondent and Davae about throwing the rocks, Davae

pointed at respondent and said that "he was throwing them also."

¶ 10 Respondent waited with Davae and Burgess until the police arrived. Because this incident occurred at night, Burgess was unable to assess the damage to his house. The following day, he found a large hole in the siding on the east side of his home and a large rock below where the damage occurred.

¶ 11 Respondent testified that on December 17, 2011, he, Davae, and another friend, Tyran, were at his house. At approximately 8:40 p.m., the three boys left his house and walked toward another friend's apartment. As the boys approached the corner where Burgess's house was located, respondent stopped to tie his shoe. When the boys resumed walking, Burgess "came out of the bushes" and started chasing them. Respondent initially ran toward the friend's apartment but turned back when Burgess's son "clipped Davae." When respondent returned to help Davae, Burgess was "threatening to kill Davae and stuff." Respondent never set foot in Burgess's yard, nor did he see anyone else on the street. Respondent did not hear any "bangs" from rocks hitting Burgess's home.

¶ 12 On this evidence, the trial court found respondent guilty of the offense of criminal damage to property. At the June 2012, dispositional hearing, the court found it was in respondent's best interest to order a continuance under supervision. See 705 ILCS 405/5-615 (West 2012). The court also ordered respondent to pay \$90 restitution.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 A. Standard of Review

¶ 16 The State has the burden to prove the elements of the substantive offense charged

in a delinquency petition beyond a reasonable doubt. *In re Marquita M.*, 2012 IL App (4th) 110011, ¶ 28, 970 N.E.2d 598. When reviewing the sufficiency of the evidence, the question becomes "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." *Id.* The trier of fact, and not the reviewing court, has the responsibility to judge the credibility of the witnesses' testimony, resolve conflicts in the evidence, and draw reasonable inferences therefrom. *In re Gino W.*, 354 Ill. App. 3d 775, 777, 822 N.E.2d 592, 594 (2005). "A court of review will not overturn the fact finder's verdict unless 'the proof is so improbable or unsatisfactory that there exists a reasonable doubt as to the defendant's guilt.'" *In re Keith C.*, 378 Ill. App. 3d 252, 257, 880 N.E.2d 1157, 1164 (2007) (quoting *People v. Maggette*, 195 Ill. 2d 336, 353, 747 N.E.2d 339, 349 (2001)).

¶ 17 B. The Evidence Was Sufficient To Prove Respondent Guilty

¶ 18 Respondent argues that the evidence was insufficient to prove him guilty beyond a reasonable doubt of criminal damage to property, either as a principal or accomplice.

Specifically, respondent contends that the State presented no actual evidence he threw rocks at Burgess's house. Instead, respondent asserts that the State's case is based solely on Davae's statement to Burgess and circumstantial evidence, neither of which is sufficient to establish a finding of delinquency beyond a reasonable doubt.

¶ 19 "A person commits an illegal act when he knowingly damages any property of another." 720 ILCS 5/21-1(1)(a) (West 2010). A finding of guilt may stand even when based solely on circumstantial evidence. *People v. Patterson*, 217 Ill. 2d 407, 435, 841 N.E.2d 889, 905 (2005).



¶ 25 JUSTICE APPLETON, dissenting.

¶ 26 I respectfully dissent. I would find respondent was not proved guilty by the unsupported evidentiary conclusions reached by the trial court. Simply put, there was no evidence, other than his mere presence, that respondent threw anything.