

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

A.C.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

April 26, 2022

Court of Appeals Case No.
21A-JV-2464

Appeal from the
Vermillion Circuit Court

The Honorable
Jill D. Wesch, Judge

Trial Court Cause No.
83C01-2108-JD-31
83C01-1904-JD-15

Molter, Judge.

- [1] A.C., who was on GPS monitoring, cut off her ankle monitor with a knife, discarded the GPS monitor on her front porch, and left her house in violation of

her placement. The State filed a petition of delinquency against A.C. alleging she committed acts that would constitute escape as a Level 5 felony and criminal mischief as a Class B misdemeanor if committed by an adult, and the juvenile court found both of the allegations against A.C. to be true. A.C. was ordered to serve 90 days of probation for criminal mischief concurrently with 730 days of probation for escape. A.C. appeals and argues that the State failed to present sufficient evidence to prove she committed criminal mischief, and the State does not contest this. Because we agree with the parties that the State failed to present sufficient evidence to sustain A.C.'s criminal mischief adjudication, we reverse her adjudication for criminal mischief and remand to vacate the adjudication and corresponding sentence.

Facts and Procedural History

- [2] In June 2019, A.C. admitted to the delinquent act of child exploitation and, in September 2019, was placed on probation for one year. In September 2020, following four revocation petitions, A.C. was placed on GPS monitoring with community corrections. On August 2, 2021, A.C. cut off her ankle monitor with a knife, discarded the GPS monitor on her front porch, and left her house in violation of the terms of her placement. The next day, the State filed a petition of delinquency against A.C. alleging she committed acts that would constitute escape as a Level 5 felony and criminal mischief as a Class B misdemeanor if committed by an adult. For the criminal mischief, the State alleged A.C. broke her mother's glass window without consent.

- [3] After a fact-finding hearing, the juvenile court found that A.C. committed both the alleged delinquent acts of escape and criminal mischief. A dispositional hearing was held, and the juvenile court ordered A.C. to serve 730 days for escape and 90 days for criminal mischief with the sentences suspended to probation and to run concurrently for a total suspended sentence of 730 days. A.C. now appeals.

Discussion and Decision

- [4] When reviewing a claim of insufficient evidence regarding juvenile delinquency adjudications, we neither reweigh the evidence nor judge witness credibility, and we only consider the evidence and reasonable inferences favorable to the judgment. *R.B. v. State*, 839 N.E.2d 1282, 1283 (Ind. Ct. App. 2005). We will affirm if there is substantial evidence of probative value to support the judgment. *Id.*
- [5] To prove that A.C. committed what would be Class B misdemeanor criminal mischief if committed by an adult, the State was required to prove that A.C. recklessly damaged or defaced her mother's property without her mother's consent. *See* Ind. Code § 35-43-1-2(a); Appellant's App. Vol. 2 at 8. Here, the State did not present, and no evidence was admitted, related to property damage or the allegations of criminal mischief contained in the delinquency petition during the fact-finding hearing. *See* Tr. Vol. 2 at 28–67. That includes there was no evidence presented that A.C. defaced or damaged the property of her mother without her mother's consent. Because, as the State concedes, no evidence was presented to prove any of the elements of criminal mischief as

charged, the State failed to prove by sufficient evidence that A.C. committed the offense of criminal mischief. We, therefore, find that A.C.'s adjudication for Class B misdemeanor criminal mischief should be reversed. We remand to the juvenile court to vacate the criminal mischief adjudication and its respective sentence.

[6] Additionally, A.C. points out that the dispositional order incorrectly states that she was found to have committed escape as a Level 6 felony rather than as a Level 5 felony. Appellant's Br. at 7 n.1 (citing Appellant's App. Vol. 2 at 61; Tr. Vol. 2 at 73). The State agrees. Appellee's Br. at 5. The juvenile court found that A.C. had committed escape as a Level 5 felony at the fact-finding hearing, and therefore, on remand, we instruct the juvenile court to correct this error in the dispositional order to reflect that A.C. was found to have committed a Level 5 felony and not a Level 6 felony.

[7] Reversed and remanded with instructions.

Mathias, J., and Brown, J., concur.