

## MEMORANDUM DECISION

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### ATTORNEYS FOR APPELLANT

Valerie K. Boots  
Indianapolis, Indiana

Lisa Johnson  
Brownsburg, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Indiana Attorney General

Jodi Kathryn Stein  
Deputy Attorney General  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

D.H.,  
*Appellant-Respondent,*

v.

State of Indiana,  
*Appellee-Petitioner*

May 5, 2023

Court of Appeals Case No.  
22A-JV-2289

Appeal from the Marion Superior  
Court

The Honorable Ryan K. Gardner,  
Judge

Trial Court Cause No.  
49D10-2112-JD-10597

**Memorandum Decision by Chief Judge Altice**  
Judges Riley and Pyle concur.

**Altice, Chief Judge.**

## **Case Summary**

- [1] D.H. appeals an adjudication of delinquency on a true finding of theft, a delinquent act that would be a Class A misdemeanor if committed by an adult. He contends that the State presented insufficient evidence to support the adjudication.
- [2] We affirm.

## **Facts & Procedural History**

- [3] On December 9, 2021, Ronald Shockey, a law enforcement officer, was working as off-duty security at a Walmart in Indianapolis. While Shockey was in the loss prevention office, staff began monitoring D.H.'s movement throughout the store using views from multiple security cameras. Their attention was drawn to D.H., a sixteen-year-old, because he was carrying a large backpack. D.H. had picked up a package of batteries, as well as other merchandise, while walking through the store.
- [4] Over one of the live-feed cameras, Shockey eventually saw D.H. remove the batteries from their packaging and place the batteries in his pocket. D.H. then went to the electronics department and purchased a different item. When D.H. attempted to leave the store without paying for the batteries, Shockey detained D.H. and took him to the loss prevention office. Shockey felt that D.H. was

not complying with his commands, so he pinned D.H. against a wall in the office and radioed for backup.

[5] Once backup arrived, D.H. was handcuffed, and his person and backpack were searched. Officers recovered batteries and nine-millimeter ammunition from his pockets. A nine-millimeter handgun was also found in the backpack.

[6] Shockey testified to the facts as set out above at D.H.'s delinquency hearing on June 30, 2022. He also testified that the store had a closed-circuit television system, from which video-surveillance recordings are made, and other "live view cameras that aren't part of that system." *Transcript* at 12. The State stipulated that the video recording from the event did not show D.H. removing the batteries from the packaging or placing them in his pocket. Shockey, however, testified that he personally observed, on a different camera from another angle, D.H. do so. The State did not produce the batteries, the packaging, or photographs of such at the hearing.

[7] At the conclusion of the hearing, the trial court entered true findings for dangerous possession of a firearm and theft.<sup>1</sup> The dispositional hearing was held on September 15, 2022, at which time D.H. was placed on supervised probation.

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<sup>1</sup> The State had also filed allegations of carrying a handgun without a license and resisting law enforcement, for which the court entered not-true findings.

[8] D.H. now appeals only his adjudication for theft, arguing that the evidence was insufficient to establish beyond a reasonable doubt that he took the batteries.

## **Discussion & Decision**

[9] Our standard of review for claims of insufficient evidence with respect to juvenile delinquency adjudications is well established:

[W]e do not reweigh the evidence or judge the credibility of witnesses. We look only to probative evidence supporting the adjudication and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the juvenile [committed the offense] beyond a reasonable doubt. If there is substantial evidence of probative value to support the adjudication, it will not be set aside. The uncorroborated testimony of one witness may be sufficient by itself to sustain an adjudication of delinquency on appeal.

*D.W. v. State*, 903 N.E.2d 966, 968 (Ind. Ct. App. 2009) (internal citations omitted), *trans. denied*. To emphasize, it is the trier of fact's function to determine the weight of the evidence and the credibility of witnesses, not ours. *See T.G. v. State*, 3 N.E.3d 19, 23 (Ind. Ct. App. 2014), *trans. denied*.

[10] On appeal, D.H. acknowledges our standard of review and that Shockey testified to personally observing, on a live camera feed, D.H. remove the batteries from their packaging and place them in his pocket, as well to then finding the batteries in D.H.'s pocket. But D.H. observes:

[T]he State did not introduce the batteries, the package from which the batteries were removed, or any video footage showing D.H. removing the batteries from a package or placing them in

his pocket. The State did not even introduce a photograph of the batteries or package.

*Appellant's Brief* at 8.

[11] In essence, D.H.'s argument is that Shockey should not be believed because the State did not introduce corroborating evidence. We reject this invitation to judge witness credibility. D.H. presented the same arguments below, which were plainly rejected by the trial court. Shockey's eyewitness testimony sufficiently established that D.H. "knowingly or intentionally exert[ed] unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use." Ind. Code § 35-43-4-2(a) (defining theft).

[12] Judgment affirmed.

Riley, J. and Pyle, J., concur.