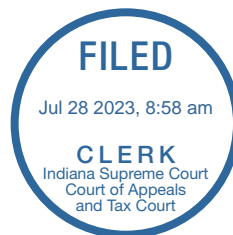


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



---

### ATTORNEY FOR APPELLANT

Jan B. Berg  
Indianapolis, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Indiana Attorney General  
  
Sierra A. Murray  
Deputy Attorney General  
Indianapolis, Indiana

---

## IN THE COURT OF APPEALS OF INDIANA

---

J.D.,  
*Appellant-Respondent,*

v.

State of Indiana,  
*Appellee-Petitioner*

July 28, 2023

Court of Appeals Case No.  
23A-JV-48

Appeal from the Marion Superior  
Court

The Honorable Ryan K. Gardner,  
Judge

Trial Court Cause No.  
49D10-2201-JD-735

**Memorandum Decision by Judge Crone**  
Judge Brown and Senior Judge Robb concur.

**Crone, Judge.**

## **Case Summary**

- [1] J.D. appeals his juvenile delinquency adjudication for criminal recklessness, a level 6 felony if committed by an adult. He contends that the State failed to present sufficient evidence to support the adjudication. Finding the evidence sufficient, we affirm.

## **Facts and Procedural History**

- [2] The evidence most favorable to the adjudication indicates that on January 27, 2022, Ruben Montesino Ramos was inside his home when he heard noises outside. When he looked out, he observed three people near his truck who were attempting to enter his vehicle. He saw a young, masked, white male, who was later identified as fifteen-year-old J.D., as well as another white male and a black male. Ramos was concerned about his personal belongings in the truck, so he went outside. When Ramos approached his truck, J.D. was inside the driver's side of the vehicle. The other males warned J.D. of Ramos's presence, and J.D. attempted to flee. A struggle ensued as Ramos tried to keep J.D. inside the vehicle until police arrived. During the struggle, J.D. was armed with a knife. Ramos felt like he was getting punched in the stomach during the struggle, and he later noticed redness, a small lump, and a bruise in that area of his body.
- [3] J.D. was able to get away, and he fled with the two other males. Ramos chased after them. He could see that J.D. had his wallet and cell phones, which J.D. eventually dropped during the chase. Ramos lost sight of the two other males

but was able to follow J.D. for approximately two blocks before police officers, including Indianapolis Metropolitan Police Department Officer Lovepreet Singh, intervened. Officer Singh observed that Ramos and some of his family members were yelling and pointing at J.D. As J.D. walked toward Officer Singh, the officer asked him if he “ha[d] anything on him.” Tr. Vol. 2 at 28. J.D. showed the officer that he had a “knife in his right pocket.” *Id.* Officer Singh “pulled it out, threw it away from him, and placed him in handcuffs[.]” *Id.* The knife was covered in blood, and J.D.’s finger was bleeding.

- [4] The State filed a delinquency petition alleging that J.D. committed level 6 felony criminal recklessness, level 6 felony theft, and class B misdemeanor unauthorized entry of a motor vehicle. The trial court held a factfinding hearing in November 2022. The court entered true findings that J.D. committed criminal recklessness and unauthorized entry of a motor vehicle but found that J.D. did not commit theft. The trial court placed J.D. on formal probation and ordered him to participate in the Complete Project Life and Complete Home-Based Case Work programs. This appeal ensued.

## **Discussion and Decision**

- [5] J.D. challenges the sufficiency of the evidence supporting the trial court’s true finding that he committed criminal recklessness. Our standard of review is well settled:

We neither reweigh the evidence nor judge the credibility of witnesses. The State must prove beyond a reasonable doubt that the juvenile committed the charged offense. We examine only

the evidence most favorable to the judgment along with all reasonable inferences to be drawn therefrom. We will affirm if there exists substantive evidence of probative value to establish every material element of the offense. Further, it is the function of the trier of fact to resolve conflicts in testimony and to determine the weight of the evidence and the credibility of the witnesses.

*J.C. v. State*, 131 N.E.3d 610, 612 (Ind. Ct. App. 2019) (citation omitted).

- [6] Regarding the trial court’s true finding of level 6 felony criminal recklessness, the State was required to prove that J.D., while armed with a deadly weapon, recklessly, knowingly, or intentionally performed an act that created a substantial risk of bodily injury to another person. Ind. Code § 35-42-2-2(b)(1)(A). “A person engages in conduct ‘recklessly’ if he engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct.” Ind. Code § 35-41-2-2(c). A “substantial risk” is one that has “substance or actual existence.” *Woods v. State*, 768 N.E.2d 1024, 1027 (Ind. Ct. App. 2002) (citation omitted). The State alleged here that J.D. committed criminal recklessness by recklessly, knowingly, or intentionally using a “knife” to try “to stab at the person of Ruben Ramos[,]” which “created a substantial risk of bodily injury to Ruben Ramos.” Appellant’s App. Vol. 2 at 22.
- [7] J.D. first claims that the State presented insufficient evidence that he was armed with a deadly weapon at the time he struggled with Ramos. Specifically, he argues that he “never told Ramos he was armed, never threatened him with a

weapon[.]” Appellant’s Br. at 9. However, Ramos specifically testified that J.D. was armed with a knife during the struggle. Indeed, when asked if “any weapons” were involved in his struggle with J.D., Ramos stated, “Yes, there was a weapon,” noting that J.D. “had a knife.” Tr. Vol. 2 at 11. J.D. maintains that additional testimony given by Ramos suggests that Ramos may not have actually known that J.D. was armed with a knife until after J.D. revealed to police that he had a knife in his pocket. However, J.D.’s self-serving interpretation of the testimony is contrary to our standard of review, which is to view the testimony in the light most favorable to the court’s judgment.<sup>1</sup> Moreover, the evidence indicates that Ramos never lost sight of J.D. as he chased after him following the struggle, and J.D. was in possession of the knife when police apprehended him. The State presented sufficient evidence that J.D. was armed with a deadly weapon during his struggle with Ramos.

[8] J.D. further asserts that there is no evidence that he actually “used a weapon in his struggle with Ramos[.]” and therefore there was insufficient evidence to establish that his mere “punches” to Ramos’s stomach “created a substantial risk of bodily injury to Ramos.” Appellant’s Br. at 9, 11. Ramos testified that he felt like he was being punched in the stomach by J.D. during the struggle, and he later noticed redness, bruising, and a lump in that area. The record further

---

<sup>1</sup> We note that Ramos testified with the aid of an interpreter. Consequently, his answers to questions, as translated and repeated by the interpreter, were often choppy and disjointed. J.D. attempts to take advantage of this by putting his own spin on the meaning of the testimony. However, the trial court, as trier of fact, was tasked with assessing the testimony, and we will view it in the light most favorable to the court’s adjudication.

revealed that the knife J.D. possessed could not be folded or sheathed, and the trial court as trier of fact could reasonably infer that J.D. handled the knife during his struggle with Ramos because he had a profusely bleeding cut on his finger and his own blood was covering the knife when police apprehended him.

[9] Based upon the foregoing, there was sufficient evidence from which the trial court could determine that J.D. used the knife during his struggle with Ramos, which created a substantial risk of bodily injury to Ramos. J.D.'s suggestion that Ramos was never at substantial risk of bodily injury due to his lack of severe injury and no visible damage to his clothing is simply a request for this Court to reweigh the evidence, which we will not do. In sum, the State presented sufficient evidence to support the trial court's true finding that J.D. committed level 6 felony criminal recklessness. The judgment of the trial court is affirmed.

[10] Affirmed.

Brown, J., and Robb, Sr.J., concur.