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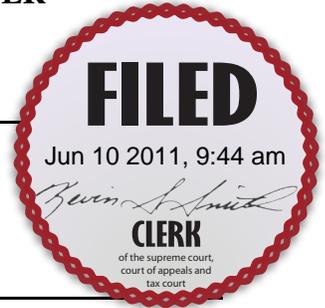
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**IN THE  
COURT OF APPEALS OF INDIANA**

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D.D., )  
 )  
Appellant- Respondent, )  
 )  
vs. ) No. 49A02-1010-JV-1201  
 )  
STATE OF INDIANA, )  
 )  
Appellee- Petitioner, )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Scott B. Stowers, Magistrate  
Cause No. 49D09-1003-JD-779

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**June 10, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**ROBB, Chief Judge**

### Case Summary and Issue

D.D., a juvenile, appeals the juvenile court's order adjudicating him to be a delinquent child based on true findings for one count of aiding, inducing, or causing rape and one count of criminal confinement. D.D. raises a single issue, which we restate as whether the juvenile court abused its discretion in partly restricting his cross-examination of two witnesses. Concluding that the trial court did not abuse its discretion, we affirm.

### Facts and Procedural History

In March 2010, A.W. and her cousin A.F. went to D.D.'s home where they spoke with D.D. and his brother J.D. A.W. and A.F. left and returned home briefly to get money, and then went back to the brothers' home because A.W. wanted to buy marijuana from them. A.F. stayed outside, listened to music on her headphones, and walked around the brothers' home while A.W. entered the garage and the garage door was closed.

A.W. later testified that the brothers attempted to pull down her pants and "do stuff" that she was not comfortable with. Transcript at 37. She resisted, but they overpowered her, removed her pants, laid her on the ground, and J.D. forcefully had sex with her while D.D. held her down. A.W. finally left, told A.F. and some neighbors what happened, and eventually told her grandmother and reported the incident to the police.

The State alleged D.D. to be a delinquent child for committing acts that would, if committed by an adult, support two counts of rape as a Class B felony and one count of criminal confinement as a Class D felony. One of the rape allegations was for committing rape himself, and the other was for aiding, inducing, or causing another to commit rape.

At the fact-finding hearing, A.W., A.F., a sexual assault nurse examiner, two officers, and D.D.'s mother and grandmother testified. During cross-examination of A.W., D.D.'s attorney asked A.W. about her past suicide attempts. D.D.'s attorney continued by asking whether A.W. told A.F. as they were waiting to be deposed that she planned on jumping off of a bridge, but the State objected and the juvenile court sustained the objection; D.D. made an offer of proof. During cross-examination of A.F., D.D.'s attorney asked whether A.W. mentioned that she planned on jumping off of a bridge, but the State objected and the juvenile court sustained the objection; D.D. made an offer of proof.

The juvenile court entered true findings as to D.D.'s criminal confinement and aiding, inducing, or causing another to commit rape, and a not true finding as to D.D. personally committing rape. Accordingly, the juvenile court adjudicated D.D. to be a delinquent child, initially committed D.D. to the Department of Correction, and then modified its order to place D.D. in the Resolute Treatment Facility. D.D. now appeals.

### Discussion and Decision

D.D. argues he was denied his fundamental right to confront and cross-examine A.W. and A.F. about a specific instance that would have revealed A.W.'s lack of credibility. In particular, the trial court sustained the State's objection to the following question to A.W.: "On the day of the deposition did you tell [A.F.] that you were going to jump off of an interstate bridge?"<sup>1</sup> Tr. at 70. D.D. also takes issue with the trial court sustaining the State's objection to substantially the same question posed to A.F.: "[O]n

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<sup>1</sup> According to the transcript A.W. answered this question "No" immediately before the State objected. However, we are not reviewing the timeliness of the objection because it was sustained, and we are reviewing D.D.'s challenge to the trial court sustaining the objection. As a result, the fact that D.D. answered the question is irrelevant to our review.

the day of the deposition, did [A.W.] tell you that she was going to jump off an interstate bridge?” Id. at 112.

The right to confront witnesses granted by our Federal and State Constitution includes the right of full, adequate and effective cross-examination, which is fundamental and essential to a fair trial. A trial court is allowed to control the conduct of cross-examination, and only a clear abuse of discretion will permit a reversal. An abuse of discretion is shown when the restriction relates to a matter which substantially affects the defendant’s rights. A defendant objecting to restriction placed on the scope of cross-examination must demonstrate how he was prejudiced by the trial court’s action.

Andrews v. State, 588 N.E.2d 1298, 1302 (Ind. Ct. App. 1992) (citations omitted).

D.D. has failed to meet his burden of showing how he was prejudiced by the trial court excluding A.W.’s and A.F.’s responses regarding a conversation that he alleges occurred while this case was pending. Cross-examination of A.W. focused on damaging her credibility with regard to the allegations and her history of emotional and suicidal issues. A.F. was asked if A.W. was always truthful, and A.F. conceded, “sometimes [A.W.] isn’t truthful. She is not.” Tr. at 112. Therefore, evidence was presented for the juvenile court to assess A.W.’s credibility generally. The issue then for the juvenile court – and the primary issue of credibility in this case – is the credibility of A.W.’s allegations regarding this incident.

In entering its findings, the juvenile court stated that A.W.’s demeanor was consistent with that of a rape victim, and that her testimony regarding the rape was consistent with photos and corroborated by witness testimony. Id. at 216. The juvenile court noted that this was a “classic credibility case,” id., which on one hand makes every challenge to her credibility crucial, but on the other hand the juvenile court’s findings as to A.W.’s credibility regarding these specific allegations were – properly – the focus.

The juvenile court found A.W. to be credible at least as to being raped by J.D. and confined by D.D., and that is all that was required for the true findings D.D. now appeals.

Questions to both A.W. and A.F. concerned whether A.W. told A.F. that she was planning on jumping off of a bridge, and their responses, even if conflicting, would not have had any bearing on the juvenile court's consideration of A.W.'s credibility regarding these specific allegations. Even conflicting responses would not have made A.W.'s testimony regarding her victimization any less corroborated by photos and other witnesses' testimonies, and would not have changed the juvenile court's perception of A.W.'s demeanor. For these reasons, D.D. has failed to show that the juvenile court's restriction of his cross-examination substantially affected his rights or prejudiced him in any way.

#### Conclusion

D.D. fails to demonstrate how he was prejudiced by the juvenile court's slight restriction of his cross-examinations. We therefore affirm the juvenile court's adjudication of D.D. to be a delinquent child for committing acts that, if committed by an adult, would constitute aiding, inducing or causing rape as a Class B felony and confinement as a Class D felony.

Affirmed.

NAJAM, J., and CRONE, J., concur.