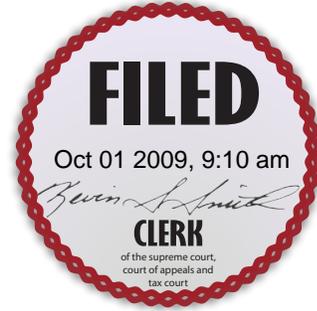


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

**MICHAEL E. CAUDILL**  
Caudill & Associates  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**GREGORY F. ZOELLER**  
Attorney General of Indiana

**JOBY JERRELLS**  
Deputy Attorney General  
Indianapolis, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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J.M., )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 49A02-0903-JV-208

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APPEAL FROM THE MARION SUPERIOR COURT, JUVENILE DIVISION  
The Honorable Marilyn A. Moores, Judge  
The Honorable Scott B. Stowers, Magistrate  
Cause No. 49D09-0809-JD-2746

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**October 1, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

## **Case Summary**

J.M. appeals his adjudication as a juvenile delinquent based on the juvenile court's finding that he committed conversion, a Class A misdemeanor if committed by an adult. We affirm.

### **Issue**

The single issue before us is whether there was sufficient evidence to support J.M.'s adjudication.

### **Facts**

The evidence most favorable to the finding indicates that on September 8, 2008, James Penniston and a co-worker were confronted on a street corner in Marion County by an unnamed suspect. Fifteen-year-old J.M. and his friend also were present on the corner. The unnamed suspect removed two items from Penniston's pocket and tossed them to J.M., who tossed them back to the other suspect. J.M. then approached Penniston, reached into Penniston's left pocket, and removed a bus schedule from the pocket without Penniston's permission. After a scuffle, Penniston was able to retrieve the bus schedule from J.M. but was unable to retrieve the other items from the first aggressor, who fled the scene with the items. Following the altercation, Penniston's co-worker called the police, and J.M. and his friend walked away from the scene. Subsequently, Penniston and his co-worker identified both J.M. and his friend to police but could not identify the other participant.

On September 10, 2008, the State filed a petition alleging J.M. to be a delinquent child, which was approved by the juvenile court, and charging him with one count of

robbery, a Class C Felony, if committed by an adult. On December 29, 2008, the juvenile court issued its ruling, finding that J.M. committed conversion and was delinquent. J.M. now appeals.<sup>1</sup>

### **Analysis**

J.M. asserts that the juvenile court erred by finding that the record contained sufficient evidence to support a finding that he committed criminal conversion. In reviewing a sufficiency of the evidence claim with respect to a juvenile adjudication, we neither reweigh the evidence nor assess the credibility of the witnesses. C.D.H. v. State, 860 N.E.2d 608, 610 (Ind. Ct. App. 2007), trans. denied. We look only to the evidence most favorable to the judgment and reasonable inferences therefrom and will affirm the adjudication if we conclude that evidence of probative value exists such that a reasonable factfinder could find the elements of the underlying crime proven beyond a reasonable doubt. Id.

To adjudicate J.M. delinquent for committing conversion, the State was required to prove beyond a reasonable doubt that J.M. did (1) knowingly or intentionally; (2) exert unauthorized control; (3) over the property of another. Ind. Code § 35-43-4-3(a). J.M. contends that the State failed prove these elements beyond a reasonable doubt because the testimony of the witnesses regarding the incident was not entirely consistent on several details. Specifically, he notes that Penniston and his co-worker provided conflicting testimony as to whether J.M. refused to accept, or accepted and then returned, the items removed from Penniston's pocket by the other suspect. In addition, J.M. notes that Penniston

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<sup>1</sup> On appeal, J.M. does not argue that conversion is not a lesser included offense of Class C felony robbery.

and his co-worker disagree on whether J.M., his friend, and the other participant were together at the start of the altercation, or whether J.M. and his friend came upon the scene after the other suspect took the first items from Penniston.

J.M. characterizes these discrepancies as significant; however, neither goes to the primary subject of the offense, which is the removal of the bus schedule from Penniston's pocket. The record reveals no significant conflict between the witnesses' testimony on the key facts related to the removal of the bus schedule from Penniston's possession. The inconsistencies cited by J.M. go to irrelevant details and do not add credence to his claim that probative evidence is lacking to support the finding that he committed conversion.

Regardless, conflicting evidence does not negate the probative value of evidence in the record and would not have prevented a reasonable factfinder from finding the elements of the underlying crime to be proven beyond a reasonable doubt. In making this argument, J.M. invites us to substitute our judgment for that of the juvenile court regarding which witnesses are to be believed and what evidence is to be given dispositive weight. However, the juvenile court is in the best position to judge the most probable sequence of events and the veracity of the witnesses, and we cannot reweigh the evidence or judge witness credibility.

### **Conclusion**

There is sufficient evidence to support the finding that J.M. committed conversion.

We affirm.

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Consequently, we do not address that issue.

Affirmed.

NAJAM, J., and KIRSCH, J., concur.