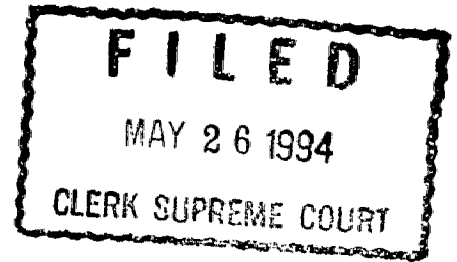


IN THE COURT OF APPEALS OF IOWA

No. 4-176 / 93-1352



IN THE INTEREST OF D.M., Jr., A Child,
Appellant.

Appeal from the Iowa District Court for Muscatine
County, John G. Mullen, Judge.

D.M. appeals from a juvenile proceeding alleging
delinquent conduct which would be first-degree robbery if
committed by an adult, pursuant to Iowa Code sections
232.2(12) and 711.2 (1991). **AFFIRMED.**

Jeffrey M. Johnson, Muscatine, for appellant.

Bonnie J. Campbell, Attorney General, John M. Parmeter,
Special Assistant Attorney General, and Kathrine S.
Miller-Todd, Assistant Attorney General, for appellee.

Heard by Donielson, C.J., and Hayden and Habhab, JJ.

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PER CURIAM

D.M. appeals from a juvenile proceeding alleging delinquent conduct which would be first-degree robbery if committed by an adult, pursuant to Iowa Code sections 232.2(12) and 711.2 (1991). We affirm.

The trial court's factual findings are not contested in this appeal. D.M. was one of three individuals who were shoplifting in a Venture Store. D.M. stayed in the store as the other two individuals tried to run away with approximately \$600 worth of merchandise. One of the other two individuals fired shots at security personnel outside the store as they tried to get away. Back in the store, D.M. was detained and eventually arrested. D.M. was carrying a hunting knife at the time he was detained. The juvenile court found D.M. to be guilty of delinquent conduct that would constitute robbery in the first degree.

D.M. appeals. He contends the juvenile court erred by imposing vicarious criminal liability under a conspiracy theory when conspiracy was not charged.¹ He also claims the evidence was insufficient to support adjudication under the theory of joint criminal conduct as to the robbery charge. The State claims there was sufficient evidence showing it was foreseeable to D.M. that a gun would be used

1. Appellant argues the trial court imposed vicarious criminal liability under a conspiracy theory. The State claims the trial court was only merely describing the joint criminal conduct the juvenile participated in terms of conspiracy. We agree with both parties that conspiracy was not charged and Iowa Code section 706.1 is not at issue here.

to facilitate an escape.

Our review is de novo on the issue of whether the evidence is sufficient to establish beyond a reasonable doubt that a juvenile has committed a delinquent act. In re S.C.S., 454 N.W.2d 810, 814 (Iowa 1990).

With regard to joint criminal conduct, Iowa Code section 703.2 provides:

When two or more persons, acting in concert, knowingly participate in a public offense, each is responsible for the acts of the other done in furtherance of the commission of the offense or escape therefrom, and each person's guilt will be the same as that of the person so acting, unless the act was one which the person could not reasonably expect to be done in the furtherance of the commission of the offense.

D.M. admits he knowingly engaged in joint and concerted criminal action with the two other individuals as to theft. The question here is whether D.M. could have reasonably expected force would be used by one of the participants to escape from the store. The juveniles intended to get away from store security. The use of force to accomplish that goal could be reasonably expected. In this regard, we note that D.M. himself was carrying a hunting knife.

We find the use of force during the escape was an act which D.M. could reasonably expect. We affirm the trial court's ruling.

AFFIRMED.