

IN THE COURT OF APPEALS OF IOWA

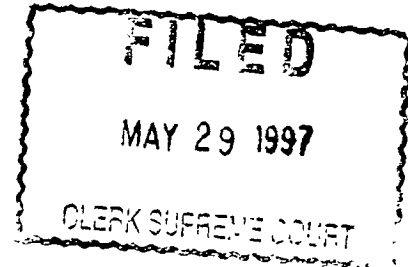
No. 7-229 / 96-0998

000267

IN THE INTEREST OF B.R., Minor Child,

B.R., Minor Child,

Appellant.



Appeal from the Iowa District Court for Benton County, Susan S. Flaherty,
Associate Juvenile Judge.

Juvenile appeals the juvenile court's ruling finding he committed the
delinquent act of third-degree criminal mischief. **AFFIRMED.**

Mark J. McCool, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General,
and Ray Lough, Assistant County Attorney, for appellee-State.

Considered by Huitink, P.J., and Streit and Vogel, JJ.

VOGEL, J.

This is an appeal by Benjamin challenging the juvenile court's ruling that he committed the delinquent act of criminal mischief in the third degree. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On August 5, 1995, Benjamin was at his home in Wahlford. His friend Jeffrey was visiting for the weekend. Scott Whitters saw Benjamin and Jeffrey shooting a BB gun toward a house which had been constructed by his brother, Todd Whitters. The siding on the house was damaged and would cost \$941 to repair.

Nick and Brandon went to Benjamin's house on the afternoon in question. They testified they saw Benjamin and Jeffrey shoot Whitters' house from the window of Benjamin's room. Brandon also testified he saw Benjamin and Jeffrey shoot toward the house while standing outside.

Jeffrey testified Brandon brought his BB gun to Benjamin's house and used it to shoot at the house from Benjamin's window. Benjamin testified Brandon told him he had shot a hole in the house. Benjamin admitted he had been outside shooting his BB gun that day, but stated he had only shot toward a corn field.

The juvenile court found Benjamin had shot at Whitters' house when standing outside his own home, causing damage to the home. The court concluded Benjamin had committed the delinquent act of criminal mischief in the third degree. The disposition order placed Benjamin on formal probation and ordered him to pay restitution. He now appeals.

Our scope of review in juvenile delinquency matters is de novo. *In re D.L.C.*, 464 N.W.2d 881, 882 (Iowa 1991). We give weight to the factual findings of the juvenile court, especially when considering the credibility of witnesses, but are not bound by them. *In re J.D.S.*, 436 N.W.2d 342, 343 (Iowa 1989).

Benjamin contends there is insufficient evidence in the record to support the juvenile court's conclusion that he committed third-degree criminal mischief. He points out that the testimony of Nick and Brandon contradicted his testimony and that of Jeffrey. He believes the credibility of Nick and Brandon was questionable and their testimony should not be given any consideration. Benjamin claims that it was Brandon who shot the house.

As noted above, we give weight to the factual findings of the juvenile court on the issue of credibility. The juvenile court specifically found the testimony of Scott was credible. Scott testified he saw Benjamin shooting a BB gun in the direction of his brother's house. Brandon also testified he had seen Benjamin shooting the gun in that direction. Benjamin admitted he had been shooting his BB gun outside that day. On our de novo review, we find there is sufficient evidence in the record that Benjamin committed the delinquent act of criminal mischief in the third-degree. We couple our finding with the juvenile court's assessment of credibility of the witnesses.

We affirm the juvenile court's finding that Benjamin committed a delinquent act.

AFFIRMED.