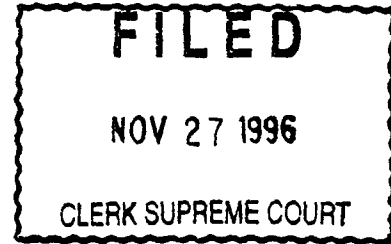


IN THE COURT OF APPEALS OF IOWA

No. 6-670 / 96-0582

IN THE INTEREST OF J.M.D., A Minor Child,
J.M.D.,
Appellant.



Appeal from the Iowa District Court for Wayne County, Richard D. Morr,
Judge.

J.M.D. appeals from the district court's order finding he committed a
delinquent act by operating a motor vehicle while under the influence of alcohol.
AFFIRMED.

Monty W. Franklin, Humeston, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, and Alan M. Wilson, County Attorney, for appellee.

Considered by Habhab, P.J., and Huitink and Vogel, JJ. Streit, J., takes no
part.

PER CURIAM

This is an appeal by a juvenile claiming the juvenile court erred by finding he committed the delinquent act of operating a motor vehicle while under the influence of alcohol, in violation of Iowa Code section 321J.2. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On November 2, 1995, James obtained a ride with some friends. There was alcohol in the vehicle. After a time, James moved to the front seat and about ten or fifteen minutes later, he began to drive the vehicle. Within a short time, he lost control and the vehicle went into a ditch. James left to get help. He was found about four hours later, passed out in a field. A urine test showed his alcohol level was .199.

Nicole, one of the passengers in the vehicle, testified James did not drink any alcohol before they got in the vehicle or when he was sitting in the back seat. She did not know what had happened once James moved to the front seat. She stated James left immediately after the car went into the ditch, and he did not take any alcohol with him. James testified he had nothing to drink while in the vehicle. He claimed he only began to drink after the vehicle was in the ditch.

The juvenile court found James had committed the delinquent act of operating a motor vehicle while under the influence. James was released to the custody of his parents. He now appeals the juvenile court's decision.

James claims the State presented insufficient evidence to show he operated a vehicle while under the influence of alcohol. He admits he was driving a vehicle and

that the later urine test showed he was intoxicated. James states, however, there is no evidence to show he was intoxicated at the time he was driving. He asserts the only evidence to show when he became intoxicated was his own testimony he drank a bottle of Mad Dog and one-fourth of a bottle of Southern Comfort before leaving to get help.

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).

We find there is sufficient evidence in the record to show James committed the delinquent act of operating a motor vehicle while under the influence. Nicole testified she did not know if James drank any alcohol while in the front seat of the vehicle. It is clear alcohol was available in the vehicle. The juvenile court was not required to accept James' version of the facts. Also, the fact James lost control of the vehicle and went into the ditch could show his conduct was influenced by the consumption of alcohol.

We affirm the decision of the juvenile court finding James committed a delinquent act.

AFFIRMED.