

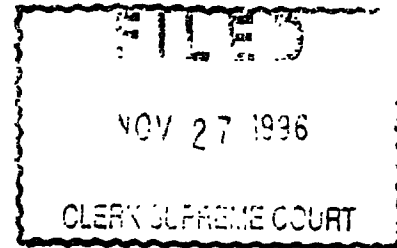
IN THE COURT OF APPEALS OF IOWA

No. 6-483 / 95-1992

IN THE INTEREST OF M.G., A Minor Child,

M.G., Minor Child,

Appellant.



Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,
Associate District Judge.

M.G., a minor child, appeals a juvenile court finding that he had committed a delinquent act of fourth-degree theft in violation of Iowa Code section 714.2(4) (1995). **AFFIRMED.**

Dennis A. Bjorklund, Iowa City, for appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, and Deborah F. Minot, Assistant County Attorney, for appellee State.

Heard by Habhab, P.J., Cady, and Vogel, JJ.

CADY, J.

Matthew G., a minor child, appeals a juvenile court finding he committed the delinquent act of fourth-degree theft in violation of Iowa Code section 714.2(4) (1995). We affirm.

On or about March 3, 1995, a Macintosh classic computer was reported missing from Northwest Junior High School in Coralville, Iowa. In early April of 1995, the school district discovered a central processing unit [CPU] was also missing. The school district had placed identification tags on both items.

Upon learning of the thefts, the associate principal asked one of the night custodians if he had observed any suspicious activity. The custodian indicated he had seen a tall male with blond hair dragging a large black bag on the floor after hours. The school's media specialist indicated she observed Matthew dragging a large black bag out of the school.

The associate principal called Matthew and several other individuals matching the description given by the custodian to his office for questioning. Matthew indicated during the questioning he owned three computers, one of which was a Macintosh. Matthew stated he purchased the Macintosh from Adam M., a fellow student, for \$30.00. The associate principal spoke with Adam who indicated Matthew had taken a computer and asked Adam to corroborate a story that Adam sold the computer to Matthew.

After receiving permission from Matthew's grandmother, his legal guardian, the associate principal and Matthew examined Matthew's computers. The principal discovered Matthew possessed the stolen Macintosh Classic Computer, as well as the CPU. Matthew said he received the CPU from a friend. The associate principal also found several computer accessories belonging to the school at Matthew's home. The police charged both Matthew and Adam.

At Matthew's delinquency hearing, Matthew testified he did not know the computer was stolen from the school. Matthew maintained he purchased the computer from Adam. In support of his argument Matthew produced a bill of sale showing Adam sold the Macintosh Classic to Matthew for \$60.00 less \$30.00 for repairs. Matthew and Adam signed the bill of sale. Matthew's grandmother witnessed the signing and signed it herself, adding a note the sale was contingent upon the signatures of Adam's parents. Matthew stated Adam also gave him the CPU.

Adam testified Matthew took the computers from school, scraped the school logos off the computers, and came up with the idea of the bill of sale so his grandmother would not get suspicious. Adam further testified he never showed his parents the bill of sale because he was afraid he would get in trouble. Adam was on probation for his prior involvement with the stolen computers.

The juvenile court found Matthew was aware the computer was stolen and was the property of the school district. Matthew was found delinquent based on the

offense of possession of stolen property having a value of \$170.00, theft in the fourth degree.

Matthew appeals. He contends the evidence was insufficient to support a delinquency finding. He argues the testimony of Adam was so impossible and self-contradictory that it should have been disregarded by the juvenile court. He further argues no other evidence exists to corroborate Adam's highly unbelievable statements.

I. Standard of Review

Our review is de novo. *In re C.T.*, 521 N.W.2d 754, 756 (Iowa 1994). We review questions of both law and fact. Iowa Code § 232.133(1) (1995). We give weight to the fact-findings of the trial court, especially when considering credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7); *In re J.D.S.*, 436 N.W.2d 342, 343 (Iowa 1989).

II. Sufficiency of the Evidence

The juvenile court made specific findings of fact and concluded the State had proven beyond a reasonable doubt Matthew committed the delinquent act of theft in the fourth degree, in violation of Iowa Code section 714.2(4). In so finding, the district associate judge stated:

The Court considers the testimony of Adam M. and his version of how things took place and finds that his explanation does dovetail with the other testimony, particularly that of Patricia G.'s insistence on preparation of the bill of sale. At this point, Adam M. has little motivation to lie in his testimony. The Court believes Adam's

rendition that would indicate that Matthew was aware that the computer he was dealing with was the property of the Iowa City School District and was stolen property.

The juvenile court found Adam's testimony concerning Matthew's knowledge of the thefts of the computer credible. Where there is a conflict in the evidence the fact finder must decide which evidence is credible and which is not. *In re D.L.C.*, 464 N.W.2d 881, 883 (Iowa 1991). Although we are not bound by the juvenile court's determination that Adam was a credible witness, we give weight to this finding. Iowa R. App. P. 14(f)(7). Upon our independent review of the record, we also conclude Adam was a credible witness. Therefore, we accept his testimony as sufficient to support a finding Matthew committed the delinquent act of Theft in the Fourth Degree. We also find ample corroborative evidence. The adjudicatory order of the juvenile court is affirmed.

AFFIRMED.