IN THE COURT OF APPEALS OF IOWA

17

No. 0-50 / 89-893

FILED
MAR 27 1990
CLERK SUPREME COURT

IN THE INTEREST OF M.W.B., A Child,

Appellant.

Appeal from the Iowa District Court for Marion County, Norman R. Hays, District Associate Judge.

A juvenile appeals from an adjudication of delinquency and a resulting dispositional order. **AFFIRMED.**

James Vernon Hicks of Johnston, Hicks & Guiter, Knoxville, for appellant.

Thomas J. Miller, Attorney General, Gordon E. Allen, Deputy Attorney General, and Kathrine S. Miller-Todd, Assistant Attorney General, for appellee.

Heard by Oxberger, C.J., and Schlegel and Hayden, JJ.

OXBERGER, C.J.

A juvenile appeals from an adjudication of delinquency and a resulting dispositional order. He challenges the sufficiency of the evidence to establish that he was guilty of aiding and abetting in the commission of second-degree sexual abuse. We affirm the decision of the juvenile court.

Juvenile delinquency proceedings are not criminal prosecutions; they are special proceedings that serve as an ameliorative alternative to the criminal prosecution of children. In re J.D.S, 436 N.W.2d 342, 344 (Iowa 1989). Our review is de novo. Id. at 343. We give weight to the fact findings of the juvenile court, especially when considering the credibility of the witnesses, but are not bound by them. Id.; Iowa R. App. P. 14(f)(7).

M.W.B. was born in January 1974 and was 14 years of age at the time of trial. He was accused of aiding and abetting another boy who sexually assaulted a teen-aged girl. He was adjudicated to be delinquent due to the commission of the crime of sexual abuse in the second degree. He has appealed from the adjudication and the resulting dispositional order.

M.W.B. challenges the sufficiency of the evidence to establish that he was guilty of aiding and abetting in the commission of second-degree sexual abuse. He urges that the juvenile court's findings are speculative and that the conclusions are primarily conjecture.

Due process requires that the standard of proof in delinquency proceeding be beyond a reasonable doubt. In re Thompson, 241 N.W.2d 2, 4 (Iowa 1976). If in our de novo review admissible evidence satisfies the reasonable doubt standard, we need not reverse. In re Wheeler, 229 N.W.2d 241, 243-44 (Iowa 1975). When examining a claim concerning the alleged insufficiency of evidence, we view the evidence in the light most favorable to the state. State v. Schrier, 300 N.W.2d 305, 306 (Iowa 1981). Evidence is sufficient when there is substantial evidence from which a rational fact finder could determine defendant is guilty of the crime beyond a reasonable doubt. State v. Mitchell, 371 N.W.2d 432, 432 (Iowa App. 1985).

The record in this case reveals that the victim was raped by T.D. on December 16, 1988. The victim sustained bruises to the vaginal opening that were a result of forcible penetration. Doctor Kanis testified that the girl experienced a forcible rape. The emergency room nurse also testified that the injuries the victim suffered would not have occurred without forcible penetration. Further, T.D.'s statements to the police support a finding of forcible rape. In his statement T.D. stated that he used a little force on the victim to get her into the bathroom. T.D. further admitted that he locked the door and that the girl fought and told him "no."

The record further reveals that M.W.B. aided and abetted in the sexual assault committed by T.D. The state asserts that from the time T.D. and M.W.B. "entered Godfather's [Pizza] and sat in the booth with the victim, they acted in concert." We agree. The juvenile court adjudicated M.W.B. delinquent for having aided and abetted T.D. in the commission of the sexual assault. The juvenile court concluded that M.W.B. aided and abetted T.D. in the following ways:

> 1. Having crawled under the table in the booth, thus sandwiching [the victim] between himself and [T.D.], . . . and touching her inappropriately.
> 2. In following her to the salad bar and effectively denying her from avoiding further contact with . . . [T.D.]
> 3. In aiding [T.D.] in forcing her down the hallway and into the rest room.
> 4. In holding the rest room door shut when she tried to escape.
> 5. In failing to divulge to either Durham or Woodyard what was happening inside the locked rest room, althought he was standing right next to Woodyard for about 15 or 20 minutes while the act occurred.

Upon our de novo review of the record we agree with the analysis of the juvenile court. We agree with the juvenile court's rejection of T.D.'s statement to the police, claiming that M.W.B. had no part in the commission of the act. We believe the evidence was sufficient to convince a rational trier of fact that M.W.B. aided and abetted T.D. in the commission of the act.

AFFIRMED.