UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2362

September Term, 2015

IN RE: DADRIAN C-W.

Krauser, C. J.,
Graeff,
Leahy,

JJ.

PER CURIAM

Filed: September 6, 2016

Following an adjudicatory hearing, the Circuit Court for Prince George's County, sitting as the juvenile court, found Dadrian C-W., appellant, involved in the delinquent act of malicious destruction of property. On appeal, Dadrian challenges the sufficiency of the evidence to support the finding. We shall affirm.

When faced with a challenge to the sufficiency of the evidence "[t]he appropriate inquiry is not whether the reviewing court believes that the evidence establishes guilt beyond a reasonable doubt, but rather, whether after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *In re Kevin T.*, 222 Md. App. 671, 676-77 (2015) (citation and quotation marks omitted). "This same standard of review applies in juvenile delinquency cases. In such cases, the delinquent act, like the criminal act, must be proven beyond a reasonable doubt." *In re James R.*, 220 Md. App. 132, 137 (2014) (citation and quotation marks omitted). We will not disturb the juvenile court's findings of fact unless they are clearly erroneous. *In re Kevin T.*, 222 Md. at 677.

In order to prove malicious destruction, the State must prove that the defendant 1) willfully or maliciously, 2) destroyed, injured, or defaced, 3) the property of another. *See* Maryland Code (2002, 2012 Repl. Vol.), Criminal Law Article, §6-301(a). Viewing the evidence in the light most favorable to the prosecution, as we must, we conclude that the juvenile court could have found Dadrian involved in the delinquent act of the malicious destruction of property based on the evidence that he threw an unidentified object at a vehicle belonging to Yolonda Blackledge, resulting in an estimated $1,300 worth of damage to the vehicle.

Dadrian contends that the evidence was insufficient because the juvenile petition charged that he "did wilfully [sic] and maliciously **destroy**, the personal property of Yolonda Blackledge" (emphasis added), but that the evidence at trial did not prove that the vehicle was destroyed, that is, rendered unusable or unrepairable, but only that it sustained repairable damage.[1] We conclude that any variance between the petition and the proof at trial does not warrant a reversal.

Matters essential to a criminal charge "must be proved as alleged in the indictment." *Green v. State*, 23 Md. App. 680, 685 (1974) (citation omitted), *cert. denied*, 274 Md. 728 (1975). "'When there is a material variance between the *allegata* and the *probata*, the judgment must be reversed.'" *Savage v. State*, 212 Md. App. 1, 14, n.9 (2013) (quoting *Green*, 23 Md. App. at 685). "[A] variance is material if it operated to the defendant's surprise, prejudiced the defendant's rights, or placed the defendant at risk of double jeopardy." 41 Am. Jur. 2d Indictments and Informations § 244 (2015).

Dadrian does not contend that any variance between the charge as alleged in the juvenile petition, and the evidence at trial, was in any way detrimental to his defense, or that it put him at risk of double jeopardy. Moreover, unlike in *In re: Areal B.*, 177 Md. App. 708 (2007), upon which Dadrian relies, evidence that the vehicle in question was destroyed, as opposed to injured or defaced, would not constitute a separate offense that

[1] Dadrian cites Black's Law Dictionary, which defines "destroy" as "[t]o damage (something) so thoroughly as to make unusable, unrepairable, or nonexistent; to ruin[.]" Black's Law Dictionary (10th ed. 2014).

punishes "altogether different behavior," *id.* at 714, such that due process rights were violated. *Id.* at 721.

Any variance in terms of the degree of damage caused by Dadrian's actions was immaterial. Accordingly, Dadrian is not entitled to the relief requested.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.