

Circuit Court for Wicomico County
Case Nos. C-22-JV-18-000258

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

Nos. 3114 & 3204

September Term, 2018

IN RE: D.M.

Kehoe,
Gould,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 2, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The Circuit Court for Wicomico County, sitting as a juvenile court, found D.M., appellant, involved in the offenses of robbery, second-degree assault, theft, and conspiracy to commit theft. On appeal, D.M. asserts that the evidence was insufficient to sustain the juvenile court’s findings of delinquency.¹ For the reasons that follow, we shall affirm.

In reviewing the sufficiency of the evidence to sustain a conviction in a criminal case, this Court reviews the evidence admitted at trial in the light most favorable to the prosecution and determines whether any rational trier of fact could have found the essential elements beyond a reasonable doubt. *In re: Kevin T.*, 222 Md. App. 671, 676-677 (2015). We employ the same review in juvenile delinquency proceedings and will not disturb the juvenile court’s findings of fact unless they are “clearly erroneous.” *Id.*

At the adjudication hearing, the victim., a 13-year-old juvenile, testified that D.M. was a member of a group of four to five boys who approached him and asked if he wanted to purchase marijuana. When the victim responded that he did not want to purchase marijuana, one of the boys grabbed him by the neck, while other members of the group began to take things from him including his watch, his phone, and \$10.00. At first, D.M. was “sitting on . . . some type of steps” about four feet away and “telling the group of boys take this, take that.” However, D.M. later took a “lighter leash” directly from the victim. The victim also testified that, during the robbery, D.M. was “leading” the other boys and “telling them to do stuff.” The police located D.M. shortly after the robbery and the victim identified him as the “mastermind” of the robbery during a show-up identification. During

¹ Following the disposition hearing, D.M. filed two separate notices of appeal. We consolidated those appeals for briefing and argument.

cross-examination, the victim acknowledged that he did not actually see D.M. telling the other boys to take his stuff during the robbery; however, he indicated that he knew D.M. prior to the robbery and recognized his voice.

D.M. first contends that there was insufficient evidence to prove that he was present during the incident. However, the victim identified D.M. as one of the perpetrators during a show-up identification and at trial, and the testimony of a single witness is sufficient to sustain a conviction. Although D.M. claims that the victim’s testimony was not credible because he had only known D.M. for a few months and did not actually see D.M. when he was speaking to the other boys during the robbery, it is “not a proper sufficiency argument to maintain that the [trier of fact] should have placed less weight on the testimony of certain witnesses or should have disbelieved certain witnesses.” *Correll v. State*, 215 Md. App. 483, 502 (2013). That is because “it is the [trier of fact’s] task, not the court’s, to measure the weight of the evidence and to judge the credibility of the witnesses.” *State v. Manion*, 442 Md. 419, 431 (2015) (citation omitted). Therefore, we will not disturb the circuit court’s credibility findings on appeal.

D.M. alternatively claims that, even if he was present, the evidence was only sufficient to sustain his convictions for theft and conspiracy to commit theft because there was no testimony that he “played any role whatsoever in the battery committed by one of the other boys when [that boy] put his hands on [the victim’s] neck.” However, the evidence established that, after one of the boys put his hands around the victim’s neck, D.M. told the other boys what to take from the victim and then took an item from the victim himself. This evidence, if believed, was sufficient to establish that D.M. both aided and

participated in the robbery and assault. Consequently, the State presented sufficient evidence to support his delinquency adjudication.

**JUDGMENTS OF THE CIRCUIT COURT
FOR WICOMICO COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**