

IN THE COURT OF APPEALS OF IOWA

No. 23-0898
Filed March 6, 2024

**IN THE INTEREST OF S.M.,
Minor Child,**

**S.M., Minor Child,
Appellant.**

Appeal from the Iowa District Court for Scott County, Korie Talkington,
District Associate Judge.

A juvenile appeals the juvenile court order adjudicating him delinquent for domestic abuse assault causing injury or mental illness and domestic abuse assault by displaying or using a weapon. **AFFIRMED.**

Gregory F. Greiner, West Des Moines, for appellant minor child.

Brenna Bird, Attorney General, and Louis S. Sloven, Assistant Attorney
General, for appellee State.

Considered by Bower, C.J., and Greer and Chicchelly, JJ.

CHICCHELLY, Judge.

S.M., a minor child, appeals the juvenile court's adjudication of him as a delinquent child, finding that he committed the delinquent acts of domestic abuse assault causing injury or mental illness and domestic abuse assault while using or displaying a weapon. Because sufficient evidence supports these findings, we affirm.

I. Background Facts and Proceedings.

On December 22, 2022, S.M., who was in a romantic relationship with A.G. and had been residing with her at her grandmother's trailer, was in the process of moving his things back to his father's trailer nearby. Throughout that day, S.M. and A.G. argued off and on. A.G. picked up her friend, J.M., that morning and returned with her to her grandmother's residence. Thereafter, S.M., A.G., and J.M. were all three hanging out in A.G.'s bedroom.

At some point, S.M. suggested to J.M. that the two of them go to his house. This upset A.G., who then said, "why, so you can sleep with her again?" Both S.M. and J.M. immediately became angry and S.M. "got in [A.G.'s] face." S.M. said, "I should hit you right now," and A.G. told him to "do it." S.M. struck her, which initially shocked A.G., and the two then began wrestling. They crashed around the bedroom, breaking a desk and other items, before S.M. slammed A.G. against the wall and choked her. He then threw A.G. on the bed, and the force "pushed the bed out" from the wall. Next, S.M. brandished a gun, which A.G. later described as a black Glock, and he "hit [A.G.] in the head with it and pointed it at [her] and said I should shoot you right now, bitch." At this point, J.M. intervened, attempting to pull S.M. away from A.G. as he continued to hit A.G.. Fearing S.M. would shoot

her, A.G. then jumped on S.M., who got up and fled to his father's house nearby. After S.M. ran off, A.G. called the police.

When police arrived, they found A.G. to be very emotional, with blood coming from her head, lip, and nose. She told them about the gun, so they searched the home for it but found no sign of one. Police then went to S.M.'s father's trailer and, having located S.M. there, patted him down but did not find a gun on him either. As a part of their investigation of the incident, police took photos of S.M.'s and A.G.'s injuries and the aftermath of A.G.'s bedroom. In the photos, A.G. is coated in blood from multiple injuries on her face and head. Photos of S.M. depict a bleeding lip. Based on their initial investigation, police determined that S.M. was the "primary physical aggressor." Later that same day, police obtained a search warrant and searched S.M.'s father's residence for a gun, but no gun was found. The State charged S.M. with one count of domestic abuse assault causing injury or mental illness and one count of domestic abuse assault while using or displaying a weapon.

At S.M.'s delinquency hearing, both A.G. and J.M. testified that S.M. was the aggressor and described in detail his attack on A.G. Further testimony from the law enforcement who responded to the incident corroborated much of their narratives. But S.M. and his father and stepmother contradicted these accounts. S.M. alleged that he did not participate in the fight and that the altercation was between A.G. and J.M. He testified that A.G. and J.M. attacked him and "were both hitting [him in] the mouth and in the side of the ear." He also stated there was no gun present. Similarly, S.M.'s father claimed he saw A.G. following the fight and she had limited injury, just a "smudge" under her nose. S.M.'s stepmother

was called again as a rebuttal witness, but the court expressed doubt as to what weight it would give her rebuttal testimony because she spoke with the father and S.M.'s attorney just before testifying. She also testified she saw A.G. following the events and A.G. had a "smudge" under her nose but no other visible injuries, which starkly contrasted with the photos of A.G. taken by police.

Following the trial, the juvenile court adjudicated S.M. delinquent, finding he committed the acts alleged in both counts. He appeals.

II. Review.

"Juvenile delinquency proceedings are 'special proceedings that provide an alternative to the criminal prosecution of children where the best interest of the child is the objective.'" *In re T.H.*, 913 N.W.2d 578, 582 (Iowa 2018) (quoting *In re M.L.*, 868 N.W.456, 460 (Iowa Ct. App. 2015)). Our review of sufficiency-of-the-evidence claims in juvenile delinquency adjudications is *de novo*. *Id.* "Although we give weight to the factual findings of the juvenile court, especially regarding the credibility of witnesses, we are not bound by them." *In re A.K.*, 825 N.W.2d 46, 49 (Iowa 2013).

III. Sufficiency of the Evidence.

S.M. contends there was insufficient evidence to find he committed either delinquent act. Specifically, he argues that A.G. was not a credible witness because she "had a motive to fabricate her allegations." He also maintains that he was not the primary aggressor.

S.M. alleges that A.G.'s testimony was motivated by her anger towards him for having been previously romantically involved with J.M. and that A.G. had attacked him. We find two issues with these allegations. First, there is no evidence

that A.G. had a motive to attack S.M. In fact, A.G. testified that “me and [S.M.] were not together. What he does on his own time, if we’re not in a relationship, he can do what he wants.” Regarding S.M. and J.M. having a prior relationship, she stated, “I thought it was funny honestly. I did not care. It didn’t hurt my feelings.” Second, and most importantly, this is a credibility determination. The juvenile court found:

[S.M.] did assault [A.G.] in the manner that [A.G.] and [J.M.] testified. The photos show injuries consistent with their testimony. Exhibits 5 and 6 show an injury to [A.G.’s] head that is consistent with being struck with a gun. The blood in the photos is dry, consistent with the injuries occurring some time prior to the photos being taken. The photos also show disarray in the bedroom consistent with the testimony of [A.G.] and [J.M.] Exhibit 2 shows the bed pushed away from the wall, just as [A.G.] described.

The court found S.M.’s witnesses less reliable, partially because it “believe[d] that [S.M.’s father and stepmother] likely spoke with each other about the photo prior to [the stepmother] being recalled because they used the exact same word, smudge, to describe what they saw.” We give great deference to the juvenile court in determining the credibility of witnesses because it “was in the best position to observe [witness] demeanor and judge . . . credibility.” *In re J.F.*, No. 19-0416, 2020 WL 1310314, at *4 (Iowa Ct. App. Mar. 18, 2020). Even without police finding the gun itself, the court believed the two girls’ testimonies. Further, we agree with the juvenile court that the photos support what A.G.’s and J.M.’s testimonies describe. Upon our de novo review, we therefore find there was sufficient evidence for the court to find that S.M. committed the delinquent acts for both counts.

IV. Disposition.

Because we find there is sufficient evidence for the juvenile court to find that S.M. committed the delinquent acts of domestic abuse assault causing injury or mental illness and domestic abuse assault while using or displaying a weapon, we affirm.

AFFIRMED.