

**IN THE COURT OF APPEALS OF IOWA**

No. 9-940 / 09-0687  
Filed December 17, 2009

**IN THE INTEREST OF A.D.E.,  
Minor Child,**

**A.D.E., Minor Child,  
Appellant.**

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Appeal from the Iowa District Court for Wright County, James A. McGlynn,  
Associate Juvenile Judge.

A minor appeals a juvenile court ruling adjudicating him delinquent.

**AFFIRMED.**

Martyn S. Elberg of Elberg Law Office, P.L.C., Eagle Grove, for appellant-  
child.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, and Eric Simonson, County Attorney, for appellee-State.

Considered by Eisenhauer, P.J., Potterfield, J., and Mahan, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

**EISENHAUER, P.J.**

A.D.E. appeals from the order adjudicating him delinquent and the subsequent dispositional order. He contends there is insufficient evidence to support a finding he committed two counts of third-degree burglary and one count of second-degree theft.

We review the juvenile court's fact findings and conclusions of law de novo. *In re C.T.*, 521 N.W.2d 754, 756 (Iowa 1994). We give weight to the juvenile court's fact findings, especially when considering credibility of witnesses, but are not bound by them. *Id.* The State has the burden of proving beyond a reasonable doubt that the child engaged in delinquent behavior. *In re D.L.C.*, 464 N.W.2d 881, 883 (Iowa 1991). We review a sufficiency challenge to determine if there is substantial record evidence to support the charge. *See In re W.B.*, 641 N.W.2d 543, 547 (Iowa Ct. App. 2001).

A.D.E.'s adjudication as delinquent stems from two incidents in the summer of 2008: one in which an iPod and charger with a value of over \$500 were taken from a vehicle belonging to a Belmond woman, and one in which \$6500 was taken from clothing left in a vehicle belonging to a Belmond man. The primary evidence supporting the adjudication is the testimony of Ashley Kurtz, a co-conspirator who had pled guilty to second-degree theft as a result of the theft of the \$6500. Kurtz also admits to having burglarized several other vehicles that summer and had been previously convicted of a theft-by-check charge.

On appeal, A.D.E. seeks to discredit Kurtz, noting inconsistencies in statements she made prior to trial, her felony conviction, and her agreement to plead guilty to second-degree theft. In regard to her testimony, the juvenile court found:

The Court acknowledges the fact that Ashley Kurtz is now a convicted felon, that she was previously convicted of a theft by check charge, and that she originally gave a statement to the police denying her involvement in these offenses. However, her testimony at trial was credible. She did not try to hide or minimize anything. She acknowledged the earlier inconsistent statements denying her involvement. Her criminal charge is now resolved. The only thing which she could possibly gain from her testimony at this point is someone with whom to share the responsibility of making restitution payments to the victims. . . . It seems very unlikely that a person searching for someone to contribute to a joint and several restitution obligation would choose a 17-year-old earning only \$7.25 per hour on a part-time job. The Court finds that the testimony of Ashley Kurtz is credible . . . .

Although we are not bound by the court's findings of fact, we give weight to them, especially when considering the credibility of witnesses. *In re J.D.F.*, 553 N.W.2d 585, 587 (Iowa 1996). We do so because of the favorable vantage point of that court. *In re L.G.*, 532 N.W.2d 478, 480 (Iowa Ct. App. 1995).

A.D.E. also contends there is insufficient evidence to corroborate Kurtz's testimony. The sufficiency of corroboration testimony is normally a question of fact. *In re Dugan*, 334 N.W.2d 300, 305 (Iowa 1983). The corroborative evidence need not be strong, nor must it confirm every material fact of the accomplice's testimony. *Id.* Here, the district court cited the following evidence as corroborating Kurtz's testimony: (1) A.D.E. had the victim's iPod in his possession and refused to say who had given it to him, (2) A.D.E. purchased an expensive guitar the same month as the theft of the \$6500 occurred, (3) the

burglaries were similar in nature, and (4) Kurtz's boyfriend told an investigating officer that A.D.E. was involved in the car burglaries.

Kurtz's testimony provides a sufficient basis for the court to find A.D.E. committed the offenses charged. Our de novo review of the evidence gives us no reason to disagree with the credibility findings and we defer to the juvenile court's specific findings in regard to Kurtz's credibility. Finally, we find sufficient evidence corroborates Kurtz's testimony. Because there is sufficient evidence to support the delinquency finding, we affirm.

**AFFIRMED.**