

[Cite as *In re J.R.W.*, 2010-Ohio-2959.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
WARREN COUNTY

IN RE: :
J.R.W. : CASE NO. CA2010-02-013
: OPINION
: 6/28/2010
:
:

APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION
Case No. 09-N23322

Jeffrey E. Richards, 147 Miami Street, P.O. Box 536, Waynesville, Ohio 45068, for appellant

Rachel A. Hutzler, Warren County Prosecuting Attorney, Michael Greer, 500 Justice Drive, Lebanon, OH 45036, for appellee

POWELL, J.

{¶1} Appellant, J.R.W., appeals the decision of the Warren County Court of Common Pleas, Juvenile Division, finding her delinquent for acts that would constitute the offense of criminal damaging.

{¶2} Appellant's delinquency adjudication was based on the allegation that she damaged another high school student's car by scratching or "keying" the car.

After a disposition was held, appellant filed this appeal, presenting a single assignment of error for our review.

{¶13} Assignment of Error:

{¶14} "THE TRIAL COURT ERRED IN FINDING THE DEFENDANT GUILTY OF CRIMINAL DAMAGING."

{¶15} Appellant argues that the adjudication lacked sufficient evidence that she was the individual who damaged the victim's vehicle and her adjudication as the perpetrator of the offense was against the manifest weight of the evidence.

{¶16} The record reveals the following evidence was presented at the adjudicatory hearing. High school student E.M. attended a bonfire party several weeks before the alleged damaging incident. E.M. stated that she overheard appellant say at the bonfire that she was going to key the victim's car and write "bitch" all over the vehicle because appellant was upset that the victim had confronted and slapped appellant's friend.

{¶17} The victim of the offense testified that she drove a salvaged Ford Mustang that had been restored and painted blue. On the day of the alleged incident, the victim drove the vehicle to school and parked in the school lot.

{¶18} Another student, C.S. testified that she was sitting outside the school building while school was still in session, waiting for a ride home. She spoke to and observed appellant in the parking lot. C.S. indicated that appellant was walking around the lot and she believed appellant walked briefly past a blue Ford Mustang. Shortly thereafter, appellant called C.S. over to the Mustang to show her that it had been "keyed." C.S. testified that she observed a long scratch on the car, but did not see the word "bitch" scratched into the paint. Appellant was still in the parking lot

when C.S. left.

{¶9} The victim returned to her car at the end of the school day and observed that her car had been "keyed" and the word "bitch" was scratched in the paint. The victim stated that she brushed away paint chips or paint flakes that were still on the scratched surface of the car. The victim drove the vehicle over to a school administrator in the parking lot and reported the damage.

{¶10} When reviewing the sufficiency of the evidence, the relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense proven beyond a reasonable doubt. *State v. Hancock*, 108 Ohio St.3d 57, 2006-Ohio-160, ¶34; see, also, *In re Watson* (1989), 47 Ohio St.3d 86, 91-92; *In re P.G.*, Brown App. No. CA2006-05-009, 2007-Ohio-3716, ¶13-14 (in determining whether a juvenile court's finding of delinquency is supported by sufficient evidence and/or is against the manifest weight of the evidence, the standards are the same as those applied in adult criminal convictions).

{¶11} When a court conducts a manifest-weight analysis, it weighs all of the evidence and reasonable inferences, considers the credibility of each witness, and determines whether, in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction or adjudication must be reversed. *Hancock* at ¶39; *State v. Blanton*, Madison App. No. CA 2005-04-016, 2006-Ohio-1785, ¶7.

{¶12} Although a reviewing court considers the weight of the evidence and the credibility of the witnesses, the review is tempered by the principle that weight and credibility are primarily for the trier of fact, as they are in the best position to view

the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony. *In re P.G.* at ¶15; *State v. DeHass* (1967), 10 Ohio St.2d 230, 231.

{¶13} The discretionary power to grant a new trial or hearing should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction or adjudication. See *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52.

{¶14} Appellant testified at the hearing that she did not damage the victim's car. Appellant admitted that she said something at the bonfire about damaging the victim's car in "anger" or "frustration," but denied saying anything about keying the car or suggesting that she would write the word "bitch" in the paint.

{¶15} E.M., the student who testified that she overheard appellant's comments at the bonfire, admitted that she made no mention in her written statement given to school authorities that she overheard appellant say anything about carving the word "bitch" all over the vehicle.

{¶16} Appellant argued that no fingerprints or other physical evidence was taken from her or the car and therefore, no physical evidence linked the damaging incident to her. She argued there were no witnesses to the incident and no clear indication that the car was actually damaged that day.

{¶17} Appellant points out that the victim identified to police three individuals she thought could have damaged the car and appellant was not one of them. Appellant stressed that one of the individuals named by the victim was suspended from school and had, arguably, a greater opportunity to damage the car on the lot.

{¶18} Reviewing the evidence under both applicable standards, reasonable

minds could find that appellant committed the acts that would constitute the offense of criminal damaging beyond a reasonable doubt, and the trier of fact did not clearly lose his or her way and create such manifest miscarriage of justice that the adjudication of delinquency must be reversed. See R.C. 2909.06; Juv.R. 29; R.C. 2152.02; see *State v. Franklin* (1991), 62 Ohio St.3d 118, 124 (while a defendant's admissions are direct evidence, a conviction can be sustained on circumstantial evidence alone as it has the same probative value as direct evidence); see *State v. O'Hara*, Butler App. No. CA208-12-295, 2010-Ohio-408, ¶10.

{¶19} Appellant's single assignment of error is overruled.

{¶20} Judgment affirmed.

YOUNG, P.J. and RINGLAND, J., concur.