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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0669**

In the Matter of the Welfare of: D. D. D.-C., Child.

**Filed February 10, 2014
Affirmed
Kalitowski, Judge**

Ramsey County District Court
File No. 62-JV-13-273

Cathryn Middlebrook, Chief Appellate Public Defender, Susan J. Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant D.D.D.-C.)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Kalitowski, Judge; and Worke, Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant D.D.D.-C. challenges the sufficiency of the evidence to sustain his juvenile-delinquency adjudication of first-degree aggravated robbery. We affirm.

DECISION

Appellant argues that the district court erred by finding appellant guilty of first-degree aggravated robbery because he did not inflict bodily harm upon the victim, J.M.,

“while committing a robbery,” as required by Minn. Stat. § 609.245, subd. 1 (2012). Rather, appellant contends that the violence he inflicted was an unrelated assault that occurred after he had dominion and control over J.M.’s cell phone. We disagree.

When assessing the sufficiency of the evidence on appeal, we examine the record to determine whether the evidence, viewed in a light most favorable to the conviction, was sufficient to permit the fact-finder to reach the verdict that it did. *In re Welfare of S.A.M.*, 570 N.W.2d 162, 167 (Minn. App. 1997). “This court must assume that the fact-finder believed the state’s witnesses and disbelieved any contrary evidence.” *In re Welfare of T.N.Y.*, 632 N.W.2d 765, 768 (Minn. App. 2001) (citations omitted). The verdict will stand “if the fact-finder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude the defendant was guilty of the charged offense.” *In re Welfare of C.J.W.J.*, 699 N.W.2d 328, 334 (Minn. App. 2005) (citing *State v. Alton*, 432 N.W.2d 754, 756 (Minn. 1988)).

Appellant was charged with first-degree aggravated robbery under Minn. Stat. § 609.245, subd. 1. This statute provides that “[w]hoever, while committing a robbery . . . inflicts bodily harm upon another, is guilty of aggravated robbery in the first degree” Minn. Stat. § 609.245, subd. 1. A “robbery” occurs when

[w]hoever, having knowledge of not being entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against any person to overcome the person’s resistance or powers of resistance to, or to compel acquiescence in, the taking *or carrying away* of the property

Minn. Stat. § 609.24 (2012) (emphasis added).

Viewed in the light most favorable to the verdict, we conclude that the evidence was sufficient to convict appellant of first-degree aggravated robbery. J.M. testified that appellant pushed her from behind, and took her cell phone from her hand. A third person threw a garbage can at J.M., causing her to fall to the ground. While on the ground, appellant began punching J.M. Appellant then moved on to assaulting J.M.'s friend. Afraid the assault would continue if she did not leave, J.M. ran for safety. The confrontation lasted only a few minutes. And appellant did not attempt to flee before he punched J.M.

We reject appellant's argument that bodily harm must precede or be simultaneous with the taking of property. "The robbery statute speaks of using force or threats to compel acquiescence in either the taking *or the carrying away* of the property." *State v. Kvale*, 302 N.W.2d 650, 653 (Minn. 1981) (emphasis added). Here, appellant inflicted bodily harm when he punched J.M. The force appellant used overcame J.M.'s power to resist, and compelled J.M.'s acquiescence in the contemporaneous "carrying away" of her cell phone. *See State v. Burrell*, 506 N.W.2d 34, 36 (Minn. App. 1993) (holding that the evidence was sufficient to sustain an aggravated robbery conviction where appellant used force against the complainant in the carrying away of her property), *review denied* (Minn. Oct. 19, 1993). Because appellant inflicted bodily harm on J.M. before "carrying away" her cell phone, we affirm appellant's adjudication of delinquency.

Affirmed.