

Circuit Court for Prince George's County
Case No. JA160680

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2680

September Term, 2016

IN RE: J. B.

Woodward C.J.,
Friedman,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned)

JJ.

PER CURIAM

Filed: December 11, 2017

*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.

After a hearing on the merits, the Circuit Court for Prince George’s County, acting as a juvenile court, found appellant J.B. involved in second degree malicious burning of property, burning a trash receptacle, and malicious destruction of property under \$1,000. The court sentenced appellant to supervised probation and, community service. Appellant appeals from the court’s finding of involvement and alleges that the evidence was insufficient to find him involved in any crime. We affirm.

BACKGROUND

Mary Young, the store manager of a CVS store located at 10692 Campus Way South, Upper Marlboro, testified at the hearing, that on May 27, 2016 she was working at the store when she received a call that the dumpster located in the outside docking area was on fire. Young called the police and simultaneously accessed her surveillance video camera which captured the event. She relayed to the police that there were three children near the dumpster when it caught fire. She provided a description of their clothing and their approximate age to the police dispatch. The police and fire department arrived shortly thereafter and extinguished the fire.

Officer Abraham Albanez of the Prince George’s Police Department testified that he received a call regarding the fire and responded to the location. He then began to search the area for the three juveniles who were seen on the video camera near the dumpster when it caught fire. Approximately ten minutes after receiving the call regarding the fire, Officer Albanez located three juveniles, including appellant, at a gas station situated approximately fifty feet from the CVS. The three juveniles matched the clothing description given in the initial call. While Officer Albanez stopped and spoke with the juveniles, other officers

responded to the scene. One of the responding officers had seen the CVS video obtained by Young, and identified appellant and the other juveniles as the juveniles who appeared on the video during and prior to the start of the fire. Officer Albanez did not observe any other juveniles in the shopping center.

Lieutenant Jamieson Scarlata, a fire investigator with the Prince George’s County Fire Department, responded to the dumpster fire and conducted an investigation into the cause of the fire. At the hearing, he testified as an expert in the field of fire investigation, that in his expert opinion the cause of the fire was incendiary, meaning “it was a set fire.”

Norman Brown, operations manager for Republic Services, the company which owned the dumpster, testified that the dumpster had a value of \$758, and that it sustained damage due to the fire. Brown testified that the company refurbished the dumpster at a cost of \$300.

DISCUSSION

Appellant argues that the evidence was insufficient to find him delinquent as the State did not produce enough evidence that he was one of the individuals in the video captured by CVS, nor was there “sufficient evidence that he started a fire.” He argues that “[i]n the video, it is impossible to tell who, if anyone, does anything to actually set the contents of the dumpster on fire,” and that “[m]ere presence at the scene of a crime is not enough to be found involved in a delinquent act.”

“The standard for appellate review of evidentiary sufficiency is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of

fact could have found the essential elements of the crime beyond a reasonable doubt.” *State v. Smith*, 374 Md. 527, 533 (2003).

Here Officer Albanez testified that he arrived shortly after he received the call about the fire, and that he located appellant and the other two juveniles approximately ten minutes after the call. He testified that appellant and the other two juveniles were in close proximity to the CVS store and that their clothing matched the descriptions given in the call. He further testified that another officer who had seen the video positively identified the three as the juveniles who appeared in the video of the dumpster fire. We are satisfied that a rational trier of fact could have found, beyond a reasonable doubt, that appellant was one of the juveniles seen in the video of the fire.

Appellant’s argument that the evidence is insufficient to prove “who, if anyone, does anything to actually set the contents of the dumpster on fire,” is without merit. The State called an expert in fire investigations who testified that the fire was intentionally set. The three juveniles are seen in the video approaching the dumpster several times before the dumpster appears to catch fire. Smoke begins to billow from the dumpster while two of the juveniles are next to the dumpster, and the third, a short distance away. All three juveniles then run away from the dumpster as the smoke intensifies and flames erupt. We hold that a rational trier of fact could have found, as the court did in this case, that, appellant either acted as a lookout for the other two juveniles as they set the fire, or in fact set the fire himself.

Although appellant is correct, that mere presence and flight from the scene of a crime is not a crime in and of itself, “presence at the immediate and exact spot where a

crime is committed is an important element that may be considered in determining guilt.” *State v. Foster*, 263 Md. 388, 394 (1971). Further, the “the trier of fact is entitled to take into consideration all the attendant circumstances surrounding the presence of a witness at the crime scene in determining whether the witness is an accomplice.” *Id.*

**JUDGEMNT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**