

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1972

September Term, 2013

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IN RE: DAMIR M.

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Meredith,  
Graeff,  
Thieme, Raymond G., Jr.  
(Retired, Specially Assigned),

JJ.

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Opinion by Thieme, J.

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Filed: August 31, 2015

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Following an adjudication hearing in the Circuit Court for Prince George’s County, sitting as a juvenile court, on October 11, 2013, Damir M. (“Damir”), appellant, was found to have been involved in one count of assault in the second degree and one count of disturbing school activities. The juvenile court subsequently committed appellant to the Maryland Department of Juvenile Justice for placement in a Level C facility. The court also ordered Damir to pay \$760.44 in restitution. In his timely filed appeal, Damir raises two questions for our consideration:

1. Did the juvenile court fail to comply with Maryland Rule 11-114(f) in ruling at the adjudicatory hearing?
2. Is the evidence sufficient to support the juvenile court’s adjudications of involvement?<sup>1</sup>

Discerning no legal error or abuse of discretion, we shall affirm the judgments of the juvenile court.

### **FACTUAL AND PROCEDURAL HISTORY**

The evidence presented at the adjudication hearing, framed in the light most favorable to the State, indicates that around 12:45 p.m. on May 2, 2013, Damir, a student at Bowie High School, walked into the third-period art class where Noah N. (“Noah”), and

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<sup>1</sup>In question two of his appellate brief, Damir purports to challenge only the sufficiency of the evidence supporting the juvenile court’s adjudication of involvement as to the offense of second degree assault. In making his argument regarding the juvenile court’s compliance with the requirements of Md. Rule 11-114(f) in question one, however, Damir also asserts that the evidence presented at Damir’s adjudication hearing was not sufficient to support the court’s adjudication of involvement as to the offense of disturbing school activities. We shall, therefore, consider the sufficiency of the evidence supporting both adjudications in addressing Damir’s second question.

approximately twenty other students were sitting at their desks, working on their assigned art projects. Damir yelled at Noah, knocked him off his chair, hit him, and stomped on him while he was lying on the floor. The two boys continued to fight until the school's security officer came into the classroom and took Damir away. As a result of the attack, Noah was treated at the hospital for a bruised right eye, stitches in his lip, a knot behind his right ear, and bruises on his face and neck. Noah testified that he did not consent to being hit by Damir.

There was a history of conflict between Damir and Noah. Just before the altercation on May 2, 2013, Damir and Noah had engaged in a verbal exchange in the hallway regarding whether and when they were going to fight. Noah refused to fight Damir at that time. After Noah returned to his class, he told a classmate to text Damir that he would fight him after school.

Damir testified in his own defense. He said that he had known Noah and had problems with him for about two years. Damir described several incidents he characterized as harrassment or bullying, where Noah intentionally "bumped him into the wall," laughed at him, and asked him "when are you going to fight me?" Damir explained that when he received Noah's text message he thought, "I had to get it over with today, right now."

## ANALYSIS

At the conclusion of Damir’s adjudication hearing, the juvenile court concluded that Damir had been involved in the alleged offense of second degree assault and the alleged offense of disturbing school activities. The offense of disturbing school activities is proscribed by Md. Code (2014 Repl. Vol.) §26-101 of the Education Article (“Ed.”), which provides, in pertinent part: “A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.” Ed. §26-101(a). Regarding the offense of disturbing school activities, the Court of Appeals has opined:

The only sensible reading of the statute is that there must not only be an “actual disturbance,” but that the disturbance must be more than a minimal, routine one. It must be one that significantly interferes with the orderly activities, administration, or classes at the school.

*In re Jason W.*, 378 Md. 596, 606 (2003).

The offense of second degree assault is prohibited by Md. Code (2012 Repl. Vol.) §3-203(a) of the Criminal Law Article (“Crim.”), providing: “a person may not commit an assault.” An assault includes a battery or an attempted battery. Crim. §3-201(b). In order to demonstrate that a juvenile was involved in the offensive physical contact variety of second degree assault, the State must prove that “the perpetrator intended to cause harmful or offensive contact against a person without that person’s consent and without legal justification.” *Hackman v. State*, 193 Md. App. 238, 257 (2010) (quoting *Elias v. State*, 339 Md. 169, 183-84 (1995)).

**I. Juvenile Court’s Adherence to Requirements of Md. Rule 11-114(f)**

Pursuant to Md. Rule 11-114(f), juvenile courts are expressly required to state on the record, the facts and circumstances upon which its adjudication is based. *See In re Brown*, 13 Md. App. 625, 632 (1971) (stating that the rule contemplates that the presiding judge will announce his finding including “a brief statement of the grounds upon which... [he] bases... [his] determination”). In pertinent part, Rule 11-114 provides:

Adjudication - Finding - Adjudicatory order. If the hearing is conducted by a judge, at its conclusion, he shall announce and dictate to the court stenographer or reporter, or prepare and file with the clerk, an adjudicatory order stating the grounds upon which he bases his adjudication.

Md. Rule 11-114(f).

After the close of the evidence, during closing argument, Damir M.’s counsel argued that the juvenile court should find Damir M. not involved on both counts. As to the assault of Noah N., counsel argued that Noah N. consented to fighting Damir M. Regarding disturbing school activities, counsel argued:

[Defense Counsel]: . . . I mean certainly we don’t [*sic*] Damir M. found involved in anything and would ask the court not to make that finding. There was some inconsistency as to whether or not it was a group of people coming in versus Damir M. coming in. The status of the class at the time there had been some testimony that the people had been in the hallway. So I would just suggest that it isn’t clear that they were engaged in an actual active class at the time of the incident. We’d ask that you find him not involved.

The court responded, “It was during school time, what else is going on in there.” Thereafter, the juvenile court immediately provided its ruling, stating:

I'm not really clear what the defense is because both of your witnesses have him throwing the first punch. When this young man said, even if he said I'll fight you later, somewhere else, neither your client nor your independent witness had him doing anything at all on May 2nd in that classroom at that time when he swung at him, hit him, put him on the ground and beat him to a pulp. Both of your witnesses verified what he said.

\* \* \*

So that's called an assault. I don't care if he felt bullied or not. That's one thing she was asking. If you felt bullied you report it, you don't go to that person and fight them. To me, that's not being bullied and being fearful of the other person at all. People who are being bullied usually are afraid. He doesn't show any fear, I'll be honest with you, that's for sure. So whether he felt bullied or not there were other solutions. Beating up the other person, that's not it. It can't be excused. I find him involved as to both counts.

On appeal, Damir concedes that the juvenile court's statement on the record complied with the requirements of Md. Rule 11-114(f) as to the offense of second degree assault. Damir asserts, however, that the juvenile court's adjudicatory findings were not sufficient to fulfill the requirements of Md. Rule 11-114(f) as to the offense of disturbing school activities. He contends that there is nothing in the court's statement that can be construed as a finding that Damir intentionally "disturbed or prevented the orderly conduct of the activities, administration or classes at his school." The State disagrees.

It is well established that, "[t]rial judges are not obliged to spell out in words every thought and step of logic..." *Beales v. State*, 329 Md. 263, 273 (1993). In response to the argument of defense counsel that the students were not "engaged in an active class," at the time Damir entered, the trial court queried, "[i]t was during school time, what else is going on in there[?]" indicating the court's understanding that the students were actively involved

in their art class at the time of the assault. Coupled with the court’s finding that Damir came into the classroom and “swung at [the victim], hit him, put him on the ground and beat him to a pulp,” the juvenile court’s comments constituted a sufficient “brief statement of the grounds” supporting the court’s determination that Damir had disturbed school activities to fulfill the requirements of Md. Rule 11-114(f). *In re Brown*, 13 Md. App. at 632.

Discerning no error, we decline to overturn appellant’s adjudication on this basis.

## **II. Sufficiency of the Evidence Supporting the Juvenile Court’s Adjudications**

Damir next asserts that the evidence presented at his adjudication hearing was not sufficient to support the juvenile court’s determinations that he was involved in either a second degree assault or disturbing school activities. Specifically, Damir contends that the evidence indicates that “Damir and Noah mutually agreed to fight[,]” and therefore, Noah consented to the assault. As to the charge of disturbing school activities, Damir asserts that the evidence was not sufficient to demonstrate that his actions “‘significantly interfere[d] with the orderly activities, administration, or classes as the school[,]’” or that he did so willfully.

In order to sustain a finding that a juvenile was “involved” in certain acts that, if committed by an adult, would constitute a criminal offense, the State must demonstrate that the juvenile has committed a delinquent act beyond a reasonable doubt. *In re Caitlin N.*, 192 Md. App. 251, 275 (2010); *see also* Md. Code (2013 Repl. Vol.) §3-8A-18(c) of the Cts. & Jud. Proc. Art.; Md. Rule 11-114(e)(1).

We review the sufficiency of the evidence supporting a juvenile court’s adjudications in the same manner we review the sufficiency of the evidence supporting a criminal conviction. *In re Landon G.*, 214 Md. App. 483, 491 (2013). In reviewing the evidence, we determine “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.” *In re Heather B.*, 369 Md. 257, 270 (2002). As to assessments of a witness’s credibility, we understand that “the fact-finder possesses the ability to choose among differing inferences that might possibly be made from a factual situation and [the appellate court] must give deference to all reasonable inferences [that] the fact-finder draws, regardless of whether [the appellate court] would have chosen a different reasonable inference.” *In re Landon G.*, 214 Md. App. at 491 (alterations in original) (citations omitted). When, as in juvenile cases, the trier of fact is a court, an appellate court will set aside an adjudicating court’s determination only if it is clearly erroneous. *In re Timothy F.*, 343 Md. 371, 379-80 (1996); *see also* Rule 8-131(c).

There is no disagreement regarding the fact that Damir entered Noah’s classroom, knocked him to the floor, and hit him multiple times with his fists. Noah testified that he did not consent to the battery. Based on this evidence, the juvenile court could have concluded, beyond a reasonable doubt, that Damir committed an act that constituted a second degree assault.



Inasmuch as the evidence demonstrates that Noah agreed to fight Damir after school, we agree with the juvenile court, who rejected defense counsel’s suggestion that Noah’s text message signified consent to the assault that occurred. As the court explained, even if Noah had agreed to fight Damir after school, Noah did not consent to or provoke the assault by Damir during his third-period art class. We conclude, therefore, that the evidence was sufficient to support the juvenile court’s determination that Damir was involved in the second-degree physical assault of Noah on May 2, 2013.

As to the charge of disturbing school activities, the Court of Appeals has cautioned that:

The words “disturb or otherwise willfully prevent,” as used in §26-101(a), cannot be read too broadly or too literally. A child who speaks disrespectfully or out of turn, who refuses to sit down or pay attention when told to do so, who gets into an argument with another student, who throws a rolled-up napkin across the room, who comes to class late, or even one who violates the local dress code in some way, may well disturb the class and, if sent to the principal, may divert the teacher or the principal from other duties for a time, but surely that conduct cannot be regarded as criminal because it is temporarily disruptive.

*In re Jason W.*, 378 Md. at 606. Damir’s actions in the instant case, however, were more than the *de minimus* intrusions described by the Court of Appeals.

The evidence presented at Damir’s adjudication hearing indicates that Damir, who was not enrolled in the third-period art class, entered the classroom, yelling and shouting loudly at Noah, knocked Noah to the ground, and repeatedly struck him until the school security officer came to break up the fight. The evidence further indicates that other students

became involved by attempting to record the altercation on their phones, and trying to pull the combatants apart. The work of the other students was also disrupted while they watched the fight.

Based on the evidence presented, we discern no error in the juvenile court’s finding that the assault constituted a disturbance that was more than that which is “simply part of the school activity,” and that Damir’s actions significantly interfered with the orderly administration of the class. *In re Jason W*, 378 Md. at 605, 606. We conclude, therefore, that the evidence presented at Damir’s adjudication hearing was sufficient to support the juvenile court’s determination that Damir was involved in the offense of disturbing school activities.

Discerning no error or abuse of discretion, we affirm the judgments of the circuit court.

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