

Circuit Court for Washington County
Case No. C-21-JV-23-000041

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 320

September Term, 2024

IN RE: D.W.

Leahy,
Zic,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 6, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

The Circuit Court for Washington County, sitting as a juvenile court, found D.W., appellant, involved in the offenses of second-degree assault and resisting arrest. He raises a single issue on appeal: whether the evidence was insufficient to sustain the juvenile court’s findings of delinquency. For the reasons that follow, we shall affirm.

In reviewing the sufficiency of the evidence to sustain a conviction in a criminal case, this Court reviews the evidence admitted at trial in the light most favorable to the prosecution and determines whether any rational trier of fact could have found the essential elements beyond a reasonable doubt. *In re Kevin T.*, 222 Md. App. 671, 676-77 (2015). We employ the same review in juvenile delinquency proceedings and will not disturb the juvenile court’s findings of fact unless they are “clearly erroneous.” *Id.*

At the disposition hearing, Master Deputy Julia Wade testified that she was working as a school resource officer at Springfield Middle School in Williamsport when she was called to the lobby by the principal “due to an altercation at dismissal time.” When she arrived, Deputy Wade observed D.W. arguing with the principal. Because there was an audience of students watching, and she wanted to speak with D.W. about the altercation, Deputy Wade asked D.W. to come with her to another room. D.W. refused and began to “walk away towards the Principal.” Deputy Wade then placed her open hand on D.W.’s back to try and escort him to another room. Deputy Wade testified that she was not attempting to arrest D.W. at this time.

In response, D.W. elbowed Deputy Wade in the chest, causing her body-worn camera to fall off. At this point, Deputy Wade decided to arrest D.W. for second-degree

assault, and informed him that he was under arrest. D.W. resisted, however, and began “struggl[ing]” in an attempt to keep from being handcuffed.

In challenging the sufficiency of the evidence, D.W. asserts for various reasons that Deputy Wade lacked reasonable and articulable suspicion to initially detain him, and thus could not arrest him for assault or resisting arrest. But whether or not the detention was unlawful is irrelevant as “there is no right to resist an ‘illegal’ stop.” *Barnhard v. State*, 86 Md. App. 518, 528 (1991). We explained the policy reason underlying this ruling in *State v. Blackman*, 94 Md. App. 284 (1992), addressing an unlawful frisk. There the Court stated as follows:

Close questions as to whether an officer possesses articulable suspicion must be resolved in the courtroom and not fought out on the streets. Albeit uttered in the different context of not permitting a “claim of right” to be asserted as a defense to robbery, the words of Judge Rodowsky in *Jupiter v. State*, 328 Md. 635, 616 A.2d 412 (1992), well express our disdain for permitting self-help by way of force and violence, “There are strong public policy reasons why self-help, involving the use of force against a person, should not be condoned.”

Id. at 306-07.

In short, even if he was unlawfully detained when Deputy Wade put her hand on his back, D.W. had no right to use any force to resist. His act of elbowing Deputy Wade in the chest thus constituted a second-degree assault upon the officer, justifying her decision to arrest him. *See Riggins v. State*, 223 Md. App. 40, 64–65 (2015).

D.W. also contends that there was insufficient evidence to sustain his conviction for resisting arrest because Deputy Wade “had no personal knowledge or any report at the time [of] any criminal behavior from D.W. prior to attempting to detain [him].” However,

Deputy Wade did not arrest D.W. for anything that occurred prior to his detention. Rather, Deputy Wade arrested D.W. for assaulting her. And she had probable cause to believe that D.W. had committed the assault, having witnessed it herself. Consequently, there was evidence from which the juvenile court could find that the arrest was justified, and that D.W. was not entitled to resist that arrest.

**JUDGMENTS OF THE CIRCUIT
COURT FOR WASHINGTON
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**