IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: D.W.	:	APPEAL NO. C-140632 TRIAL NO. 14-7229 X
	:	*JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

D.W. appeals from the trial court's judgment adjudicating him as a delinquent child for committing acts that, had D.W. been an adult, would have constituted the offense of burglary, in violation of R.C. 2911.12. For the following reasons, we affirm.

In his first assignment of error, D.W. asserts that his adjudication was against the manifest weight of the evidence. It was not.

At trial, the state presented the testimony of police officer Bryan Scott, B.B. and B.B.'s mother. Officer Scott testified that he had responded to a call reporting a possible burglary at B.B.'s residence. When he arrived at the scene, he spoke with B.B. Based on this discussion, he developed D.W. as a suspect in the burglary. Officer Scott also observed an open window in a second-floor bedroom.

B.B. testifed at trial that she and her mother had been getting ready for bed in the same first-floor bedroom on the night in question when they heard footsteps on the second floor. B.B. left the bedroom to investigate and discovered D.W. standing in her dining room. She and D.W. had dated in the past. When they saw each other, they

began arguing about D.W.'s current girlfriend. B.B. testified that she had not given D.W. permission to be in her home. B.B.'s mother testified that she and B.B. had been getting ready to sleep when they heard footsteps on the second floor. B.B. left the room to investigate, and shortly thereafter B.B.'s mother heard arguing. B.B.'s mother stated that she had not given permission to anyone to be in her house.

In his defense, D.W. offered the testimony of his then-current girlfriend, S.E., and S.E.'s step-father, K.A. S.E. claimed that she had been visiting with B.B. at B.B.'s home on the night in question when the girls heard a knock on the door. S.E. testified that B.B. answered the door and let D.W. into her home. According to S.E., B.B. and D.W. began fighting, so S.E. called her parents for a ride home. K.A. testified that he picked up his step-daughter from B.B.'s home around 11 p.m. that evening, and that he witnessed B.B. and D.W. in the front yard fighting.

While the defense's version of events, if believed, may have exonerated D.W., upon a review of the record we cannot not say that the trier-of-fact so lost its way in weighing the evidence presented as to create a manifest miscarriage of justice. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997); *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1983). D.W.'s first assignment of error is therefore overuled.

In his second assignment of error, D.W. asserts that a number of his constitutional rights were violated by a purported policy of the Hamilton County Juvenile Court that every detained juvenile appear in court wearing handcuffs, leg irons, and belly chains.

D.W. first makes a general attack on what he contends is the juvenile court's policy regarding the use of restraints, essentially arguing that the policy is unconstitutional on its face and that the policy is antithetical to the goals of the

juvenile justice system. These issues concerning the alleged policy, in general, were not argued below, and are not properly before this court on appeal.

D.W.'s next argues that he, in particular, was unfairly prejudiced by the use of restraints during his trial. In this case, D.W. appeared free from restraints when security officers were available to be in the courtroom. The court ordered him restrained when adequate security was unavailable. D.W. claims that the time that he was restrained interefered with his ability to communicate with his attorney. He also claims that the restraints may have made him appear guilty to the magistrate who presided over D.W.'s trial. There is nothing in the record to suggest that D.W. had difficulty communicating with his attorney. Likewise, D.W.'s assertion that the magistrate may have been prejudiced by D.W.'s appearance is based on mere speculation. It is D.W.'s burden to show error by reference to matters in the record. *See Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199, 400 N.E.2d 384 (1980). Since he has not done so, we overrule his second assignment of error.

The trial court's judgment is affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., DEWINE and **STAUTBERG, JJ.**

To the clerk:

Enter upon the journal of the court on October 7, 2015

per order of the court _____.

Presiding Judge