

Children's Law Center of Indiana



Delinquency

02/17/2009

In **D.W. v. State**, 903 N.E.2d 966 (Ind. Ct. App. 2009), the Court affirmed the juvenile court's adjudication of the juvenile a delinquent for resisting law enforcement, a Class A misdemeanor if committed by an adult. At the scene of a reported burglary, a police officer saw the juvenile who matched the description of the burglary suspect. The officer, who was in full police uniform, drew his gun and ordered the juvenile to drop to the ground and show his hands. The juvenile did not comply and eventually lunged at the officer "as if to take off in a running fashion." The officer tased the juvenile and placed him in custody. The juvenile was charged with one count of burglary, a Class B felony if committed by an adult, and one count of resisting law enforcement, a Class A misdemeanor if committed by an adult. The burglary count was dismissed with prejudice after the victim did not appear. The juvenile court entered a true finding on the count of resisting law enforcement. The juvenile appealed.

The Court held that here, where the officer testified that he was in full uniform, that he ordered the juvenile to stop, but the juvenile did not, and that the juvenile started to lunge as if he were taking off in a running fashion towards the officer, the evidence was sufficient to support the juvenile court's finding that the juvenile was fleeing. *Id.* at 968. On appeal, the juvenile argued that he did not "flee" for the purposes of the resisting law enforcement statute when he lunged at and ran toward the officer, in that his actions did not amount to removing himself or attempting to escape from law enforcement. The Court opined that (1) in accordance with IC 35-44-3-3, to obtain an adjudication for resisting law enforcement, the State was required to prove that the juvenile knowingly or intentionally fled from a law enforcement officer after the officer identified himself and ordered the juvenile to stop; (2) in Wellman v. State, 703 N.E.2d 1061, 1063 (Ind. Ct. App. 1998), the court held that it was enough that the defendant disobeyed a command to remain by walking away from the officer, proceeding into his own house, and locking the door behind him; (3) in Wellman at 1063, flight was defined as "a knowing attempt to escape law enforcement when the defendant is aware that a law enforcement officer has ordered him to stop or remain in place once there;" and (4) the fact that there are other inferences that could be drawn from the evidence, does not detract from the reasonableness of the juvenile court's inference that the juvenile was fleeing. *D.W.* at 968.