

# Children's Law Center of Indiana



## Delinquency

8/11/10

In **D.H. v. State**, 932 N.E.2d 236 (Ind. Ct. App. 2010), the Court affirmed the juvenile court's finding that the child committed an act that would have been battery, a class D felony (IC 35-42-2-1), had it been committed by an adult. On August 17, 2009, the fourteen-year-old child was in a school classroom with fellow students and two teachers when the child and another student began to exchange angry words. The other student began taunting the child. One of the teachers decided to move the child to another part of the room to deescalate the situation. The second teacher decided to eject the other student from the classroom. As the second teacher reached for the doorknob, the child threw a punch at the other student, but hit the teacher in the head instead, causing her pain and bringing her to her knees. The State filed a delinquency petition, alleging the child to be delinquent for acts that would have been class D felony battery on a school employee and class B misdemeanor disorderly conduct if the child had been an adult. The juvenile court found both allegations to be true after a hearing and ordered the child to be placed on probation with special conditions. The child appealed, arguing that there is insufficient evidence establishing that he knowingly or intentionally struck the teacher.

**The Court found that, inasmuch as the child admits that he threw a punch, intending to hit another student, and mistakenly struck his teacher instead, the evidence is sufficient to support the juvenile court's delinquency finding.** *Id.* at 239. The Court said that to support the allegation that the child committed an act that would have been class D felony battery had it been committed by an adult, the State was required to prove beyond a reasonable doubt that the child knowingly or intentionally touched his teacher, an employee of a school corporation, in a rude, insolent, or angry manner, while the teacher was engaged in the execution of her official duty, causing the teacher bodily injury (IC 35-42-2-1(a)(2)(G)). *Id.* at 238. The child disputes the element of intent, but the Court agreed with the State that the doctrine of transferred intent supports the delinquency finding. *Id.* Quoting Tucker v. State, 443 N.E.2d 840, 842 (Ind. 1983), the Court said it has long been held that "[t]he fact that [the defendant] did not strike his intended victim but instead injured another is not a defense. We have found in similar cases that the defendant's intent is transferred from the person against whom it was directed to the person actually injured." *D.H.* at 238. The Court said that, because the child admitted that he intended to punch the other student, the fact that he instead mistakenly struck the teacher cannot act as a defense. *Id.* The Court was also not persuaded by the child's argument that the transferred intent cases are inapposite to this case. *Id.* The Court noted IC 35-41-2-2(d), which provides

that the level of culpability required for the commission of an offense is required with respect to “every material element of the prohibited conduct.” (Emphasis added). Id. Citing Markley v. State, 421 N.E.2d 20, 21-22 (Ind. Ct. App. 1981), the Court noted that, specifically with respect to the battery statute, the culpability requirement applies only to the conduct elements—touching another in a rude, angry, or insolent manner. D.H. at 238. The aggravating circumstances that increase the penalty must be proved beyond a reasonable doubt but do not require proof of culpability. Id. The Court opined that the State is not required to prove that the child knowingly or intentionally struck his teacher. (Emphasis in original). Id. at 239. Instead, the State is required to prove beyond a reasonable doubt that the child knowingly or intentionally struck someone, and then prove beyond a reasonable doubt that the victim happened to be a teacher in the course of her duties, elevating the act to the equivalent of a class D felony. (Emphasis in original). Id.