

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA11-125

T.B.

APPELLANT

Opinion Delivered OCTOBER 12, 2011

V.

APPEAL FROM THE HOWARD
COUNTY CIRCUIT COURT
[NO. JV-10-47-1]

STATE OF ARKANSAS

APPELLEE

HONORABLE CHARLES A.
YEARGAN, JUDGE

AFFIRMED

CLIFF HOOFFMAN, Judge

Appellant T.B. appeals from an order committing him to the Division of Youth Services upon a finding that he was delinquent of the offense of second-degree terroristic threatening. T.B. challenges the sufficiency of the evidence on appeal. Because this argument is not preserved, we affirm.

A petition was filed on August 31, 2010, alleging that T.B. had committed second-degree terroristic threatening and second-degree assault on a family member or household member. T.B. was alleged to have threatened to shoot his grandfather and to have kicked his cousin in the stomach. An adjudication hearing was held on October 6, 2010. T.B.'s grandfather and two cousins testified. T.B. did not move to dismiss the charges. The court found that T.B. had committed second-degree terroristic threatening, but it found the charge of second-degree assault on a family member or household member to be not true. The court entered an order adjudicating T.B. delinquent and committing him to the Division of



Youth Services. T.B. filed a timely notice of appeal on November 3, 2010. On November 10, 2010, the court heard T.B.'s motion to amend the record to ask for a directed verdict. The court heard the motion for directed verdict and denied it.

When a juvenile fails to move for a directed verdict at the close of the evidence, he has failed to preserve a challenge to the sufficiency of the evidence on appeal. *R.R. v. State*, 2010 Ark. App. 689; Ark. R. Crim. P. 33.1(c) (2011); Ark. Code Ann. § 9-27-325(f) (Supp. 2011) (stating that the Arkansas Rules of Criminal Procedure apply to delinquency proceedings). Thus, T.B.'s failure to challenge the sufficiency of the evidence at the appropriate time bars this argument on appeal. T.B.'s attempt to make a motion for directed verdict after he was adjudicated delinquent came too late.

Affirmed.

VAUGHT, C.J., and BROWN, J., agree.

Jason Horton Law Firm, by: *Jason Horton*, for appellant.

Dustin McDaniel, Att'y Gen., by: *Pamela A. Rumpz*, Ass't Att'y Gen., for appellee.