ARKANSAS COURT OF APPEALS

DIVISION IV
No. CA12-507

M.W. APPELLANT V. STATE OF ARKANSAS APPELLEE	**Opinion Delivered:** February 20, 2013 APPEAL FROM THE CRAIGHEAD COUNTY CIRCUIT COURT, WESTERN DISTRICT [NO. JV-2012-67] HONORABLE WILLIAM LEE FERGUS, JUDGE AFFIRMED and REMANDED WITH INSTRUCTIONS

RHONDA K. WOOD, Judge

Following a bench trial, the Craighead County Circuit Court found appellant M.W. guilty of one count of criminal attempt to deliver a controlled substance and adjudicated him delinquent pursuant to sections 9-27-303(5)(A) and 306(a)(1) of the Arkansas Code. M.W. appeals on the grounds that the evidence presented at trial was insufficient and that the circuit court abused its discretion by terming appellant's testimony "ridiculous."

To preserve a challenge to the sufficiency of the evidence on appeal, a clear and specific motion for a directed verdict must be made to the trial court. *Elkins v. State*, 374 Ark. 399, 288 S.W.3d 570 (2008). A motion merely stating that the evidence is insufficient does not preserve for appeal issues relating to a specific deficiency such as insufficient proof on the elements of the offense. Ark. R. Crim. P. 33.1(c) (2012).

Appellant failed to preserve a sufficiency challenge because his directed-verdict motion at the hearing simply stated "that the State has not met their burden of proof beyond a reasonable doubt." This was not clear and concise enough to preserve the specific issue he raises on appeal.

Additionally, we find the argument that the trial court abused its discretion by finding the appellant's testimony "ridiculous" without merit. In juvenile cases, the trial court is the finder of fact, and it is the court's role to make credibility determinations. The trial court's description of the appellant's testimony was a credibility decision that we will not overturn on appeal. For these reasons, we affirm.

The pleadings in this case contained several scrivener's errors. The delinquency petition lists the incorrect statute for attempt to deliver a controlled substance.[1] Further, the order of probation lists a different statute,[2] which is also the incorrect statute for attempt to deliver a controlled substance. Our supreme court has held that the proper time to object to the form or sufficiency of an indictment or information is prior to trial. *L.C. v. State*, 2012 Ark. App. 666. We have declined to review the sufficiency of the information on appeal when there was no proper objection in the court below. *Id.* Because M.W. failed to object prior to trial, or at any point after, a challenge regarding the wrong statute being listed on his petition is now barred.

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[1] Ark. Code Ann. § 5-64-416, which the legislature repealed in 1995.

[2] Ark. Code Ann. § 5-64-419 (Repl. 2006).

It must be mentioned that at some point the prosecuting attorney, the defense attorney, the circuit judge, the juvenile-intake officer, and the juvenile-probation officer should each have caught these mistakes. Juvenile courts are often over-worked and under-staffed, but it is vital that the pleadings are accurate.

We affirm the decision of the trial court, but the case is remanded with instructions to correct the probation order to reflect the proper statute.

Affirmed and remanded with instructions.

HARRISON and VAUGHT, JJ., agree.

Terry Goodwin Jones, for appellant.

Dustin McDaniel, Att'y Gen., by: *Christian Harris*, for appellee.