

No. 1-11-2133

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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<i>In re</i> STEVON B., A MINOR	)	Appeal from the
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
	)	Cook County.
Petitioner-Appellee,	)	
	)	
v.	)	No. 11 JD 1518
	)	
STEVON B., a minor,	)	Honorable
	)	Lori M. Wolfson,
Respondent-Appellant).	)	Judge Presiding.

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JUSTICE CONNORS delivered the judgment of the court.  
Justices Quinn and Simon concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Evidence was sufficient to support adjudication of delinquency based on finding of guilt for aggravated battery.
- ¶ 2 Minor respondent Stevon B. was adjudicated delinquent based on his commission of aggravated battery and placed on one year of intensive probation. On appeal, respondent contends that the State failed to prove that the physical contact he made with the victim, a high school teacher, was insulting or provoking.

¶ 3 On April 14, 2011, the State filed a petition for adjudication of wardship alleging, *inter alia*, that respondent, a 16-year-old minor, was delinquent in that he committed the offense of aggravated battery when he knowingly made physical contact of an insulting or provoking nature with a teacher on school grounds by striking him in the arm. 720 ILCS 5/12-3(a)(2), 12-4(b)(3) (West 2010).

¶ 4 At the adjudicatory hearing, Yoni Vallecillo, a math teacher at Senn High School, testified that at 1:15 p.m. on March 16, 2011, he heard a commotion outside his classroom and saw respondent engaged in a verbal altercation with a female student, in the midst of a group of students and teachers at the end of the hallway. Vallecillo went over to help the teachers break up the fight and, with the aid of another male teacher, removed respondent to the stairwell. Respondent continued yelling at the female student and Vallecillo gently placed his hand on respondent's left arm, then said, "We have to go. Don't do that fight." At that point, respondent threw his arm upwards, striking Vallecillo's biceps. Respondent then warned Vallecillo not to touch him or he would get beaten up.

¶ 5 After the State rested its case-in-chief, respondent made a motion for a directed finding, arguing that any touching of Vallecillo when respondent "jerked away with his arm" was incidental. The court denied the motion, and respondent rested without testifying or presenting any evidence. The court then found respondent guilty as charged, adjudicated him delinquent and placed him on one year of intensive probation.

¶ 6 Respondent subsequently filed a motion to reconsider alleging that his act of jerking his arm away from Vallecillo was not overt, but merely a reaction to the actions of Vallecillo. The court denied the motion, and respondent now appeals, contending that the State failed to prove that the physical contact he made with Vallecillo was insulting or provoking under the battery statute.

¶ 7 As an initial matter, respondent asserts that *de novo* review is appropriate in this case because he does not dispute the trial court's factual findings, but contends that, as a matter of law, the battery statute does not punish the conduct attributed to him. We agree that where the facts are not in dispute, a defendant's guilt is a question of law that we review *de novo*. *People v. DeRosario*, 397 Ill. App. 3d 332, 333 (2009) (citing *People v. Smith*, 191 Ill. 2d 408, 411 (2000)). However, where, as here, respondent is ultimately challenging the trial court's factual findings, *de novo* review is inappropriate. *In re Malcolm H.*, 373 Ill. App. 3d 891, 893-94 (2007).

¶ 8 The constitutional safeguard of proof beyond a reasonable doubt applies during the adjudicatory stage of juvenile delinquency proceedings. *In re Malcolm H.*, 373 Ill. App. 3d at 893. Where, as here, respondent challenges the sufficiency of the evidence to sustain the court's delinquency determination, the relevant question on review is whether, after considering the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *In re W.C.*, 167 Ill. 2d 307, 336 (1995); *Jackson v. Virginia*, 443 U.S. 307, 315-16 (1979).

¶ 9 In order to sustain the delinquency determination in this case, the State was required to prove beyond a reasonable doubt that respondent knowingly made physical contact of an insulting or provoking nature with an individual he knew to be a teacher on the grounds of a school. 720 ILCS 5/12-3(a)(2), 12-4(b)(3) (West 2010); *People v. Fultz*, 2012 Il App (2d) 101101, ¶ 49. Respondent does not challenge the proof that the victim was a teacher on school property at the time of the incident, but contends that the State failed to show that his contact with the teacher was of an insulting or provoking nature.

¶ 10 We observe that "a particular physical contact may be deemed insulting or provoking based upon the factual context in which it occurs." *People v. Peck*, 260 Ill. App. 3d 812, 814

(1994) (quoting *People v. d'Avis*, 250 Ill. App. 3d 649, 651 (1993)). In addition, where, as here, the victim did not explicitly testify that he was provoked or insulted by respondent's conduct, the trier of fact can make that determination from the context in which the contact occurred. *Fultz*, 2012 IL App (2d) 101101, ¶ 49; *People v. Wrencher*, 2012 IL App (4th) 080619, ¶ 55.

¶ 11 In this case, the contact occurred in the context of Vallecillo, a teacher, attempting to break up a verbal altercation between two students and removing respondent to a stairwell. Although respondent's conduct might be completely innocent in another context (*DeRosario*, 397 Ill. App. 3d at 334-35), under the facts here, the court could infer that respondent knowingly made physical contact of an insulting or provoking nature with Vallecillo as he resisted any attempt to curtail his disruptive conduct (*Fultz*, 2012 IL App (2d) 101101, ¶ 49; *Peck*, 260 Ill. App. 3d at 815). Considering the evidence in the light most favorable to the prosecution, we find that a rational trier of fact could have found respondent delinquent of aggravated battery beyond a reasonable doubt. *People v. Hale*, 2012 IL App (4th) 100949, ¶ 31.

¶ 12 In reaching that conclusion, we find no merit in respondent's assertion that the factual context, which he terms a "backstory" such as any kind of prior bad blood or antagonism between him and Vallecillo, is completely missing. According to respondent, there is no suggestion that he and Vallecillo had any kind of prior familiarity or relationship, like in *DeRosario*, 397 Ill. App. 3d at 334, where the contact occurred in the context of a failed relationship, as to give a framework for the "quick" confrontation here. To the contrary, and as discussed, the physical contact at bar occurred in the factual context of Vallecillo, a teacher, breaking up a verbal altercation and removing respondent, a student, to a stairwell. Although respondent asserts that it is obvious that his "quick" physical contact with Vallecillo's biceps was to get the teacher's hands off of him and not to specifically insult or provoke him, we observe that it is not necessary that he intended the particular injury or consequence that resulted from his conduct (*People v.*

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*Lattimore*, 2011 IL App (1st) 093238, ¶ 44), and that his actions were of an insulting or provoking nature within the meaning of the aggravated battery statute.

¶ 13 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 14 Affirmed.