

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN THE INTEREST OF J.N.C.B.

**v.
JUVENILE OFFICER**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD75299

DATE: June 28, 2013

Appeal From:

Jackson County Circuit Court
The Honorable Justine E. Del Muro, Judge

Appellate Judges:

Division Three: Cynthia L. Martin, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt,
Judge

Attorneys:

Patricia Ann Harrison, St. Louis, MO and Stephanie Allen, Rule 13 Student, for appellant.

Michael R. Fogal and Terence M. O'Malley, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

IN THE INTEREST OF J.N.C.B.,

APPELLANT,

**v.
JUVENILE OFFICER,**

RESPONDENT.

No. WD75299

Jackson County

Before Division Three: Cynthia L. Martin, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt, Judge

Juvenile J.N.C.B. appeals the trial court's judgment sustaining the allegations against him for burglary in the second degree. Juvenile asserts one point on appeal. He claims that the trial court erred in sustaining the allegations against him because there was insufficient evidence that he committed the delinquent act alleged.

REVERSED

Division Three holds:

There was not sufficient evidence that J.N.C.B. had intent to steal and therefore the evidence was insufficient to support the finding that he met the elements of the offense beyond a reasonable doubt.

The juvenile officer argues that intent to steal was established by the permissible inference of intent by proof of J.N.C.B.'s unlawful presence in a building which contained items of valuable. In this case, the permissible inference acted as the sole evidence of intent to steal, and it was insufficient to support the inference of guilt beyond a reasonable doubt. In so holding, we distinguish this case from others that have applied the same inference but where the evidence was buttressed by other indicia of guilt (e.g., knowledge of the valuable's presence, flight, forcible entry, possession of burglary tools, or movement of valuables).

Opinion by Gary D. Witt, Judge

June 28, 2013

This summary is UNOFFICIAL and should not be quoted or cited.