

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

M.A.A.,

APPELLANT

vs.

**JUVENILE OFFICER,
RESPONDENT**

WD69051

DATE: DECEMBER 9, 2008

Appeal from:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE ANN MESLE, JUDGE

Appellate Judges:
Division Three: Ellis, P.J., Holliger and Dandurand, JJ.

Attorneys:
James E. Kelley, Esq., Kansas City, MO., for Appellant

James E. Herbertson, Esq., Kansas City, MO, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS, WESTERN DISTRICT

M.A.A.,

Appellant

v.

JUVENILE OFFICER,

Respondent

No. WD 69051

Jackson County, Missouri

Before Division Three Judges: Ellis, P.J., Holliger and Dandurand, JJ.

The Juvenile Officer filed a petition alleging that M.A.A. was in need of care and treatment because he had, by his conduct and by the conduct of another for which he would be criminally responsible if tried as an adult, forcibly stolen an MP3 player from I.M.R. in violation of § 569.030 (robbery in the second degree). M.A.A. appeals from a judgment finding him in need of care and treatment due to conduct in violation of § 569.030 and asserting jurisdiction over him under § 211.031.

REVERSED AND REMANDED.

Division Three holds:

The trial court erred in finding that M.A.A. was in need of care and treatment due to conduct in violation of § 569.030. Assuming for the sake of argument that there was sufficient evidence to prove that the MP3 player was forcibly stolen from I.M.R., there was insufficient evidence to prove beyond a reasonable doubt that M.A.A. affirmatively participated in the taking so as to make him criminally liable as an accomplice. The mere facts that M.A.A. was with the group of boys earlier in the day, was present when the MP3 player was taken, and rode away with the boys after the incident are insufficient to show affirmative participation in the offense. There was no evidence that the group of boys had planned to take the MP3 player, that M.A.A. or any of the other boys encouraged the boy who took the MP3 player to do so, or that M.A.A. chased after the victim or hit the victim to prevent him from retrieving his property.

Opinion by Ellis, J.

December 9, 2008

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