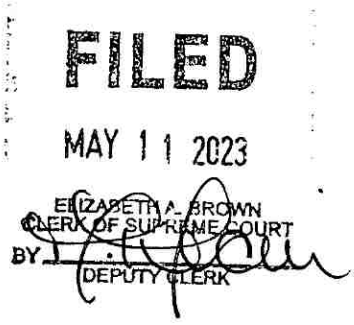
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: M. B., DATE OF BIRTH: 11/17/2005.

M. B.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84386



ORDER OF AFFIRMANCE

This is an appeal from a juvenile court order adjudicating appellant M.B. a delinquent child. Eighth Judicial District Court, Family Court Division, Clark County; William O. Voy, Judge.[1]

First, M.B. argues the evidence at the adjudicatory hearing was insufficient to prove sexual assault with a minor under 14 years of age because the victim lacked credibility and no evidence corroborated the victim's allegations. When reviewing a challenge to the sufficiency of the evidence at an adjudicatory hearing, we "consider whether, when viewing all of the evidence in the State's favor, a rational fact finder could have found the offense's essential elements beyond a reasonable doubt." *In re T.R.*, 119 Nev. 646, 649, 80 P.3d 1276, 1278 (2003). "[A] sexual assault victim's uncorroborated testimony is sufficient evidence to support an adjudication." *Id.* at 650, 80 P.3d at 1278. And "evaluating the credibility

[1]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

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of witnesses and the weight to be given their testimony is within the fact finder's province." *Id.* at 649-50, 80 P.3d at 1278.

Here, the victim testified with some particularity as to a sexual penetration committed by M.B. when the victim was under the age of 14 years. *See LaPierre v. State*, 108 Nev. 528, 531, 836 P.2d 56, 58 (1992) ("[T]he victim must testify with *some* particularity regarding the incident in order to uphold the charge."); *see also* NRS 200.366(1)(b) (sexual assault on a child under the age of 14). The victim described the residence and the room in which the incident happened, what she was wearing, and how the sexual penetration occurred. In its order, the juvenile court noted that it "observed the demeanor of the victim during the hearing and heard the consistencies and inconsistencies." It was within the juvenile court's province to evaluate the victim's credibility, and the court found the victim credible. We conclude there was sufficient evidence presented from which a rational fact finder could have found beyond a reasonable doubt the elements of sexual assault with a minor under 14 years of age.

Next, M.B. argues that he was prejudiced because the fact finder was aware of other bad acts that were ruled inadmissible for the adjudicatory hearing. The State moved to admit evidence of allegations against M.B. by other victims and, in ruling on the motion, the juvenile court necessarily considered the specific allegations. The juvenile court denied the State's motion and subsequently served as the fact finder at the adjudicatory hearing. M.B. contends the juvenile court could not fairly preside over his adjudicatory hearing after considering the State's motion because the court could not "unhear" the allegations against him.

Before making its findings at the conclusion of the adjudicatory hearing, the juvenile court stated on the record that it considered only the evidence presented at the adjudicatory hearing and only the allegation made by the victim identified in the delinquency petition. In its order, the juvenile court again stated that it "relie[d] upon the facts presented with regard to the allegations made in this petition alone in making its decision." Based on the record, M.B. has not shown that the juvenile court relied upon the excluded evidence in its delinquency adjudication. *See, e.g., State v. Smith*, 940 N.W.2d 497, 504 (Minn. 2020) ("Although . . . judges are not immune from emotional appeals or the temptation to misuse evidence, they have experience and familiarity with the operation of the rules of evidence that reduce the risk of unfair prejudice." (internal quotation marks omitted)); *State v. Anders*, 975 S.W.2d 462, 466 (Mo. Ct. App. 1998) ("In a judge-tried case, we presume that the trial judge was not prejudiced by inadmissible evidence and was not influenced by it in reaching a judgment, unless it is clear from the record that the trial judge considered and relied upon the inadmissible evidence." (internal citation omitted)); *Commonwealth v. Fears*, 86 A.3d 795, 820 (Pa. 2014) ("[I]t is presumed that a trial court, sitting as fact-finder, can and will disregard prejudicial evidence." (internal quotation marks and alterations omitted)). And, as concluded above, there was sufficient evidence to support the adjudication. *Cf. Paris v. Sarat*, 90 Nev. 428, 429, 529 P.2d 213, 214 (1974) (listing cases where it was "presume[d] that the trial judge did not consider erroneously admitted evidence if there is ample competent evidence in the record to support [the judge's] decision"). We perceive no error by the juvenile court in this regard.

Having considered M.B.'s contentions and concluded no relief is warranted, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Stiglich

_____, J.
Lee

_____, J.
Bell

cc: Chief Judge, Eighth Judicial District Court
Department A, Family Court Division, Eighth Judicial District Court
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk