

**IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA**

**J.L.,**

**Appellant,**

**v.**

**STATE OF OKLAHOMA,**

**Appellee.**

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**NOT FOR PUBLICATION**

**No. J-2014-326**

**FILED**  
IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

JUL 31 2014

**MICHAEL S. RICHIE**  
**CLERK**

**SUMMARY OPINION**

**C. JOHNSON, JUDGE:**

On August 16, 2013, a delinquency petition was filed against Appellant J.L. charging him with Count 1, Assault with a Dangerous Weapon and Count 2, Carrying a Dangerous Weapon on School Property in Garfield County Case No. JDL-2013-126. On April 8, 2013, the District Court of Garfield County, the Honorable Brian N. Lovell, Special Judge, adjudicated J.L. delinquent of the charged offenses. From this adjudication J.L. appeals raising the following propositions of error:

1. The evidence presented by the State was insufficient to prove the requisite element of a specific intent to do bodily harm;
2. The State failed to present evidence that the knife possessed by J.L. was a "weapon" prohibited on school property by statute; and
3. Error occurred when the judge departed from his role as neutral jurist and assumed the duty of the prosecutor.

Pursuant to Rule 11.2(A)(3), *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2014), this appeal was automatically assigned to this

Court's Accelerated Docket. The propositions and issues were presented to this Court in oral argument on July 31, 2014, pursuant to Rule 11.2(E). At the conclusion of oral argument, the parties were advised of the Court's decision.

The District Court's order adjudicating J.L. delinquent is **AFFIRMED**.

The standard of review to be used in examining a claim of sufficiency of the evidence is whether "after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime charged beyond a reasonable doubt." *Taylor v. State*, 2011 OK CR 8, ¶ 12, 248 P.3d 362, 368; *Easlick v. State*, 2004 OK CR 21, ¶ 15, 90 P.3d 556, 559; *Spuehler v. State*, 1985 OK CR 132, ¶ 7, 709 P.2d 202, 203-204. While the evidence presented at trial was conflicting, there was sufficient evidence to support Judge Lovell's finding that J.L. committed the offense of Assault with a Dangerous Weapon.

We find no merit in the remaining claims presented in J.L.'s appeal. J.L. alleges at proposition 2 that the State failed to present evidence that J.L.'s knife was a weapon prohibited on school grounds. The knife was identified through the use of photographic evidence sufficient to prove that it met the definition of a weapon prohibited on school grounds.

At proposition 3, J.L. argues that Judge Lovell "assumed the duty of the prosecutor", departing from his role as a neutral jurist. The record reflects that prior to adjudicating J.L. delinquent on Count 2, Judge Lovell asked a third party to retrieve a knife from his office, which was then shown to J.L. The court,

without objection, asked J.L. if the knife was similar to the one he had in his possession the day of the incident. J.L. identified that knife as looking “a little” like the knife he had. Judge Lovell then announced that he was adjudicating J.L. delinquent on the weapon possession charge.

J.L. did not object to Judge Lovell’s actions. Failure to object with specificity to errors alleged to have occurred at trial waives that error for purposes of appellate review unless the error constitutes plain error. *Grant v. State*, 2002 OK CR 36, ¶19, 58 P.3d 783, 791; *Smallwood v. State*, 1995 OK CR 60, ¶38, 907 P.2d 217, 229; *Simpson v. State*, 1994 OK CR 40, ¶ 2, 876 P.2d 690, 693. To be entitled to relief under the plain error doctrine, Appellant must prove: 1) the existence of an actual error (i.e., deviation from a legal rule); 2) that the error is plain or obvious; and 3) that the error affected his substantial rights, meaning the error affected the outcome of the proceeding. *See Simpson v. State*, 1994 OK CR 40, ¶¶ 3, 11, 23, 876 P.2d 690, 694-695, 698; 20 O.S.2011, § 3001.1. If these elements are met, this Court will correct plain error only if the error “seriously affect[s] the fairness, integrity or public reputation of the judicial proceedings” or otherwise represents a “miscarriage of justice.” *Simpson*, 1994 OK CR 40, at ¶ 30, 876 P.2d at 701 (citing *United States v. Olano*, 507 U.S. 725, 736, 113 S.Ct. 1770, 1779, 123 L.Ed.2d 508 (1993); 20 O.S.2011, § 3001.1. *Hogan v. State*, 2006 OK CR 19, ¶ 38, 139 P.3d 907, 923.

J.L. has not met this burden as he has not shown that the error affected the outcome of the proceeding. Identification of the knife through the photograph

was sufficient to support the delinquency adjudication as to Count 2. We find no error here warranting reversal.

J.L.'s delinquency adjudication is **AFFIRMED**. The District Court of Garfield County, the Honorable Brian N. Lovell is directed to enter an order modifying J.L.'s adjudicated charge from Assault and Battery with a Dangerous Weapon to Assault and Battery.

### **DECISION**

The order of the District Court of Garfield County adjudicating Appellant delinquent in Garfield County Case No. JDL-2013-126 is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2014), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

AN APPEAL FROM THE DISTRICT COURT OF GARFIELD COUNTY  
THE HONORABLE BRIAN N. LOVELL, SPECIAL JUDGE

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**OPINION BY:** C. JOHNSON, J.:  
LEWIS, P.J.: CONCUR  
SMITH, V.P.J.: CONCUR  
LUMPKIN, J.: CONCUR  
A. JOHNSON, J.: CONCUR

OA/F