

## Review of Recent Juvenile Cases (2007)

by  
The Honorable Pat Garza  
Associate Judge  
386th District Court  
San Antonio, Texas

---

### **Confession plus circumstantial and corroborative evidence was legally and factually sufficient to adjudicate for burglary.[In the Matter of M.G.G.](07-3-15)**

**On July 18, 2007, the San Antonio Court of Appeals found that when the child's confession is combined with the cumulative force of all the circumstantial and corroborative evidence, it is both legally and factually sufficient to support the child's adjudication for burglary.**

¶ 07-3-15. **In the Matter of M.G.G.**, No. 04-06-00740-CV, 2007 Tex.App.Lexis 5575 (Tex.App.— San Antonio, 7/18/07).

**Facts:** The record shows that during the adjudication phase the State relied on both circumstantial evidence and statements made by M.G.G. to three neighbors of the victim -- Ishmal Beard, Elsa Morales, and Lula McCarter. The evidence established that the victim lived at her home at 2123 E. Crockett until her death on May 30, 2005, and M.G.G. and his family lived nearby at 2111 E. Crockett. The burglary occurred on July 5, 2005 while the home was unoccupied. The property identified as stolen in the burglary included: a large brass and glass coffee table with matching end tables; 50 pieces of jewelry, including a solitaire diamond ring, gold chains, large gold rings, several pendants of butterflies, fish and flowers; two handguns, including a derringer; and miscellaneous other items and electronic equipment. Prints obtained from the home did not match M.G.G., and no one saw M.G.G. or anyone associated with him enter or leave the home. However, on the day the burglary was discovered, witnesses observed drag marks on the sidewalk that led from the front steps of the victim's home to the front of M.G.G.'s family home. In addition, Beard testified M.G.G. approached him soon after the burglary and asked him if he wanted to buy some glass tables. Beard saw three glass tables, two small and one large, in M.G.G.'s bedroom. When asked how he had acquired the furniture, M.G.G. told Beard that he, his brother and another person broke into the dead lady's house and stole all her stuff. M.G.G. told Beard that they wore gloves for the burglary and had taken, among other things, a derringer handgun and a .45 caliber handgun. A second neighbor, Morales, testified M.G.G. and his brother tried to sell her a bracelet, a ring, and a necklace with a butterfly design, and had furniture and electronic equipment for sale. A third neighbor, McCarter, testified M.G.G. tried to sell her a gold chain about four or five days after the burglary. Other evidence admitted at trial showed that after the burglary, M.G.G.'s mother pawned 29 items, including a number of jewelry items, some of which were similar to those listed as stolen in the burglary.<sup>1</sup> These pawned items were never redeemed. None of the property stolen in the burglary was ever recovered.

<sup>1</sup> The evidence further showed that for the entire year of 2004, M.G.G.'s mother pawned only four items.

**Held:** Affirmed.

**Opinion:** In his first and second issues, M.G.G. argues no reasonable fact finder could have found beyond a reasonable doubt that he entered the victim's home, or, alternatively, the evidence was factually insufficient to support the adjudication. In support of his position, M.G.G. relies upon *McBride v. State*, 803 S.W.2d 741 (Tex. App.--Dallas 1990), *pet. dismiss'd*, 819 S.W.2d 552 (Tex. Crim. App. 1991), for the proposition that a vague confession to a burglary is legally insufficient to sustain a conviction where no property taken in the burglary is found on the defendant or anyone associated with him. In *McBride*, the defendant confessed to committing several burglaries. The court of appeals found that, despite the confession, the evidence was insufficient to show the defendant had committed the charged burglary, reasoning that the "confession's description of the location of the burglary was vague and imprecise;" "no property taken in the . . . burglary was found in [the defendant's] possession;" and "the State offered no proof that the items described in [the defendant's] confession were the same or even similar to the items taken" from the charged burglary. *Id.* at 743-44.

We conclude the evidence in the instant case is clearly distinguishable from *McBride*. Here, as contrasted with the confession and evidence presented in *McBride*, M.G.G.'s admission to a neighbor that he broke into the house of "the lady that died down the street" is not vague or imprecise. Instead, the statement identifies with reasonable particularity the owner of the house and the neighborhood location of the house burglarized. In addition, there is evidence in this record, other than the confession, linking M.G.G. to the charged burglary. Several witnesses testified they saw items similar to those stolen in M.G.G.'s possession, including a large glass and brass coffee and end table set. Furthermore, several witnesses testified there were scrape marks in the sidewalk, apparently made by something large and heavy being dragged over it, beginning at the bottom of the front steps of the victim's home and ending at M.G.G.'s home. Evidence was presented that M.G.G.'s mother pawned jewelry which was similar to that stolen.

**Conclusion:** When M.G.G.'s confession to Beard is combined with the cumulative force of all the circumstantial and corroborative evidence, it is both legally and factually sufficient to support M.G.G.'s adjudication for burglary. See *Powell v. State*, 194 S.W.3d 503, 507 (Tex. Crim. App. 2006); *Watson v. State*, 204 S.W.3d 404, 414 (Tex. Crim. App. 2006). M.G.G.'s first and second issues are overruled.

Based on the foregoing reasons, the trial court's judgment is affirmed.