

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA12-222

R.R.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 20, 2013

APPEAL FROM THE POPE COUNTY
CIRCUIT COURT
[JV-2011-223]

HONORABLE KEN D. COKER, JR.,
JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

This is a juvenile case in which R.R. was charged with refusal to submit to an arrest. The situation arose when a law-enforcement officer saw R.R., a tall young man, approaching a much smaller woman, who was walking her dog, at night, on a street in a small community. The officer said that he was concerned for the woman's safety and approached R.R. Initially unbeknownst to the officer, the woman was R.R.'s mother, and they were on the street in front of their house. Before the evening was over, several other officers were summoned to the scene. R.R. and his mother ended up in the backseat of a patrol car, and R.R. was tasered several times, removed from the backseat, thrown to the ground, tasered again, kicked, handcuffed, and arrested.



At the hearing the trial court heard the testimony of all interested persons, then found that the State had met its burden of proving beyond a reasonable doubt that R.R. had committed the offense of refusal to submit to an arrest and entered a finding of delinquency based on that determination. In making its ruling, the trial court repeatedly expressed its dismay as to how such “an innocent situation” “just got completely out of hand.” The trial court also recounted that “by all accounts” R.R. was a fine young man, an excellent student, and active in sports, clubs, and church activities. The trial court based its finding of refusal to submit to arrest primarily on its finding that R.R. moved around and wrestled around while the officers held him on the ground, making it difficult for the officers to put the cuffs on him. The trial court ordered him to serve one day in detention, with credit for one day served. R.R. appeals, challenging the sufficiency of the evidence to support the trial court’s conclusion. We affirm.

To preserve a challenge to the sufficiency of the evidence in a bench trial, a criminal defendant must make a specific motion for dismissal or for directed verdict at the close of all evidence. *L.C. v. State*, 2012 Ark. App. 666. In a nonjury trial, if a motion for dismissal is to be made, it shall be made at the close of all the evidence, and the motion shall state the specific grounds therefor. Ark. R. Crim. P. 33.1(b) (2012). The failure of a defendant to challenge the sufficiency of the evidence at the times and in the manner required by Rule 33.1 will waive any question pertaining to the sufficiency of the evidence to support the verdict or judgment. Ark. R. Crim. P. 33.1(c). A motion for directed verdict or for dismissal based on insufficiency of the evidence must specify the respect in which the



evidence is deficient. *Id.* A motion merely stating that the evidence is insufficient does not preserve for appeal issues relating to a specific deficiency such as insufficient proof on the elements of the offense. *Id.* The rationale supporting this rule lies in the fact that if specific grounds are stated and proof deficiencies are pinpointed, the circuit court can either grant the motion, or, if justice requires, allow the State to reopen its case and supply the missing proof. *L.C. v. State, supra.* There is nothing for our court to review without a trial court's ruling on a specific motion. *Id.*

Here, although the prosecution and the defense of this matter were both fully developed, there was no specific motion made asserting insufficient evidence at the close of all the evidence. Accordingly, the challenge to the sufficiency of the evidence in this appeal is not preserved for our review.

Affirmed.

WALMSLEY and BROWN, JJ., agree.

Holly Dickson and Michael Lamoureux, for appellant.

Dustin McDaniel, Att'y Gen., by: *Nicana C. Sherman*, Ass't Att'y Gen., for appellee.