

¶1 After a contested adjudication hearing in April and May 2012, the juvenile court found fifteen-year-old Alexis P.¹ had knowingly carried or possessed a firearm on public property. *See* A.R.S. § 13-3111(A) (minor shall not knowingly carry or possess firearm in place open to public or on street or highway). The court adjudicated Alex delinquent and placed him on standard probation for four months. On appeal, Alex argues the court erred in denying his motion for a judgment of acquittal made at the close of the state’s case and in adjudicating him delinquent beyond a reasonable doubt. *See* Ariz. R. P. Juv. Ct. 29(D)(2), (C). For the reasons stated below, we affirm.

¶2 The juvenile court shall enter a judgment of acquittal if “there is no substantial evidence to support an adjudication.” Ariz. R. P. Juv. Ct. 29(D)(2). When reviewing a delinquency adjudication, “we will not re-weigh the evidence, and we will only reverse on the grounds of insufficient evidence if there is a complete absence of probative facts to support the judgment or if the judgment is contrary to any substantial evidence.” *In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001). “Substantial evidence is more than a mere scintilla and is such proof that ‘reasonable persons could accept as adequate and sufficient to support a conclusion of defendant’s guilt beyond a reasonable doubt.’” *State v. Mathers*, 165 Ariz. 64, 67, 796 P.2d 866, 869 (1990), *quoting State v. Jones*, 125 Ariz. 417, 419, 610 P.2d 51, 53 (1980). We review the denial of a motion for judgment of acquittal de novo. *See State v. West*, 226 Ariz. 559, ¶ 15, 250 P.3d 1188, 1191 (2011).

¹In this decision, we refer to Alexis as Alex.

¶3 In determining whether substantial evidence exists, we view the evidence in the light most favorable to sustaining the adjudication. *In re Julio L.*, 197 Ariz. 1, ¶ 6, 3 P.3d 383, 384-85 (2000). “When reasonable minds may differ on inferences drawn from the facts, . . . the trial judge has no discretion to enter a judgment of acquittal.” *State v. Lee*, 189 Ariz. 590, 603, 944 P.2d 1204, 1217 (1997). The evidence here established that in October 2011, E.,² a student at Sahuarita Middle School, found a gun in the bushes near his school bus stop. E. initially notified Alex by text message that he had found a gun and later discussed the gun with Alex in person at a church in Amado. When E. told Alex he did not know what to do with the gun, Alex offered to buy it from him. E. described the gun, which he had moved to different locations “so nobody else would see it,” as “dusty . . . full of dirt, faded black.”

¶4 Two or three days after having found the gun, E. brought it to the middle school, where he met M., another middle-school student, in the school bathroom. M., who rode the same bus Alex rode to the nearby high school, placed the gun in his own duffle bag for later transfer to Alex. M. testified that he had confirmed with Alex in the morning that he would transfer the gun to him on the school bus later that day. Although M. kept the gun in his duffle bag during the school day, he showed it to two friends at school. M. testified that, on the bus ride home that day, Alex passed his “[b]lack or gray

²On the second day of trial, the court granted the state’s request to grant E. immunity in exchange for his testimony.

Jansport” backpack to M., who then placed the gun inside Alex’s pack.³ After some of the boys, including Alex, got off the bus, Alex removed the gun from his backpack and “[e]verybody was looking” at it. Alex handed the gun to another boy, J., who “aimed” it at another boy, B.

¶5 Later that afternoon, police officers received a report of a possible gun at the middle school that day. M. told Officer Allen Guest that Alex or another student, A., might know where the gun was. Quoting from his written police report, Guest testified that, although A. initially had denied knowledge of a gun, he subsequently had told him: “Well, I saw a gun. I think Alex[] . . . had it last. . . . I’m almost certain that he has the gun.” At trial, A. denied ever having made these statements to Guest. When defense counsel asked Guest if he could have been mistaken about A.’s statement, he responded, “I am not mistaken.” When Guest spoke with Alex shortly after the incident, he denied any knowledge of the existence of a gun. In contrast, a hearing officer who presided over the school disciplinary proceeding involving Alex testified that Alex had stated during the hearing “[t]hat he knew about the gun . . . he wanted to buy the gun.” Officers never located a gun.

¶6 In support of his motion for a judgment of acquittal, Alex claimed there was no evidence of a gun or testimony that he had possessed a gun, and that other than Guest’s testimony about his unrecorded interview with A., there simply was no

³In contrast to his testimony at trial, M. previously had told police Alex had given him the gun on the bus in the morning, and that Alex, not M., had transferred the gun from M.’s bag to Alex’s pack. When asked at trial if he could explain “why [he had] different stories,” M. stated, “I don’t know.”

substantial evidence to find Alex responsible for the charged offense. The juvenile court denied Alex's motion.

¶7 On appeal, Alex argues the evidence met neither the standard of substantial evidence to survive the motion for a judgment of acquittal nor the standard of beyond a reasonable doubt required for the delinquency adjudication. We do not assess the credibility of witnesses, leaving such evaluations to the juvenile court to make in the exercise of its discretion, as it is in the best position to do so. *In re James P.*, 214 Ariz. 420, ¶ 24, 153 P.3d 1049, 1054 (App. 2007). The evidence need not be direct in order to support a delinquency adjudication; rather, it must simply support the inference that the juvenile committed the charged offense. *See In re Andrew A.*, 203 Ariz. 585, ¶ 10, 58 P.3d 527, 529 (App. 2002). In its ruling adjudicating Alex delinquent, the juvenile court, as the trier of fact, resolved the conflicts in the evidence by expressly finding the statements made by certain witnesses at certain times more credible than others. The court found, in relevant part:

[M.] gave a series of statements, some of which were inconsistent with his trial testimony. . . . Overall, [M.] gave a variety of conflicting statements about many of the different issues in the case. One version of facts that he provided was consistent with the above description of the Court's findings. At another time he told minor's counsel that he had in fact obtained the gun from Alex . . . after Alex forced him to take possession of the handgun and hold it for Alex. He said he later returned the gun to Alex on the school bus. The court finds that [M.] is a juvenile felon and his credibility is marginal.

Another classmate from Sahuarita High School, [A.] was interviewed by the police a day or so after the above gun-pointing incident. At that time he told Officer Guest . . . that

he had seen the gun in Alex's possession, and that Alex was the last person that he saw with the gun. [A.] changed his story when he testified at trial. At trial he denied ever seeing a firearm in any form or fashion. He also denied saying anything to the contrary in speaking to the police. He remembered giving an interview to a police officer but he denied recalling any more than that. The Court specifically finds that [A.], a minor adjudicated of a felony, was not credible in his testimony at trial. The Court finds that the version of facts given by [A.] to Officer Guest shortly after the incident is the more credible version of the events as observed by [A.].

When [E.] gave a defense interview in February, 2012, and when he testified at trial, he came up with a new version of the facts as well. . . . The Court finds that this trial testimony regarding a second agreement to sell the weapon to [M.] is not credible and is inconsistent with what [E.] had told the police shortly after the gun was found by [E.]. The Court finds [E.]'s earlier statement to the police more credible than his trial testimony.

. . . .

The Court finds that the minors that gave statements and/or testified were engaged in inappropriate behavior of one type or another surrounding the gun. Many, if not all, had motives to lie before and during the trial. [M.] was not sufficiently credible to support a finding of guilt based upon his testimony standing alone. However, there were other witnesses that testified[,] corroborating Alex and [J.] possessing the gun, and corroborating [J.] pointing it at [B.]. The Court finds a consistent thread of evidence that reasonably points to the guilt of the accused minors

¶8 Despite the conflicts in the testimony, there was nonetheless substantial evidence from which the juvenile court could conclude Alex possessed a firearm. Accordingly, the court did not err in denying Alex's motion for a judgment of acquittal. Moreover, because there was not "a complete absence of probative facts to support the

judgment,” nor is “the judgment . . . contrary to any substantial evidence,” *John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d at 774, the court, as the finder of fact, correctly found Alex responsible beyond a reasonable doubt for the offense of a minor in possession of a firearm. We therefore affirm the juvenile court’s adjudication of Alex as delinquent and the subsequent disposition.

/s/ *Peter J. Eckerstrom*
PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ *Joseph W. Howard*
JOSEPH W. HOWARD, Chief Judge

/s/ *Michael Miller*
MICHAEL MILLER, Judge