

was approached by several boys as he walked home from a friend's house. One of the boys, later identified by Williamson as J.I., pulled a gun and told Williamson to give him everything in his pockets. Williamson gave nine dollars (\$9.00) and an MP3 player to J.I.

{¶ 3} Williamson called the police who responded to the area. Williamson told Dayton Police Officers Clingner and Saunders that the suspect was a black male, approximately 20 years of age, five foot seven inches (5' 7") tall and 175 pounds. He also drew a picture of the suspect for the police officers which the police discarded as unhelpful.

{¶ 4} On September 2, 2009, Detective C.W. Ritchey showed Williamson a photographic lineup containing six photographs of young black males. Williamson identified J.I. as his robber from the photographs.

{¶ 5} J.I. moved to suppress Williamson's identification of him at the photographic lineup as unnecessarily suggestive and conducive to an irreparable mistaken identification of him. The trial court overruled his motion and after an adjudication hearing found him delinquent as charged.

{¶ 6} In his first assignment of error, J.I. argues that the trial court erred in denying his motion to suppress. We have reviewed the testimony of Detective Ritchey and Jarvis Williamson and we have examined the photo spread (State's Ex. A) and find nothing unnecessarily suggestive about the victim's pre-trial identification of J.I. The first assignment of error is Overruled.

{¶ 7} In his second assignment, J.I. argues that his "conviction" or adjudication was against the manifest weight of the evidence. He argues that Williamson initially

gave the police a vague description of the robbery suspect and the drawing he made was destroyed by the police. The State for its part notes that Williamson got a good look at the robber and he quickly identified J.I. from the photo spread shown him only a few weeks after the robbery. Also, the State notes that the trial judge found that the police officers threw away Williamson’s composite drawing in good faith.

{¶ 8} The trial judge was in the best position to weigh the credibility of Jarvis Williamson. Williamson got a good look at the robber and had no difficulty identifying J.I. There was no evidence the police destroyed the composite drawing in bad faith. In *Arizona v. Youngblood* (1988), 488 U.S. 57, the United States Supreme Court held that failure to preserve “potentially useful” evidence violates due process only upon a showing of bad faith. There is no evidence the trial judge lost his way in finding J.I. delinquent. See *State v. Thompkins* (1997), 28 Ohio St.3d 380, 1997-Ohio-52. The appellant’s second assignment of error is also Overruled.

{¶ 9} The judgment of the trial court is Affirmed.

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FAIN and FROELICH, JJ., concur.

Copies mailed to:

- Mathias H. Heck, Jr.
- Ciara S. Parks
- Byron K. Shaw
- Hon. Anthony Capizzi