

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 5, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-2459-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**IN THE INTEREST OF TONYA G.,
A PERSON UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

TONYA G.,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Dodge County:
DANIEL W. KLOSSNER, Judge. *Affirmed.*

DYKMAN, P.J.¹ Tonya G. appeals from an order adjudicating her delinquent for several offenses that she committed in Oconto County. Tonya

¹ This appeal is decided by one judge pursuant to § 752.31(2)(e), STATS.

argues that the evidence was insufficient to support the finding of delinquency because the State failed to prove beyond a reasonable doubt that Dodge County was a proper venue. We conclude that the evidence was sufficient to prove that Dodge County was a proper venue. Therefore, we affirm.

On December 11, 1996, a delinquency petition was filed against Tonya in Dodge County Circuit Court. The petition alleged that Tonya committed several offenses in Oconto County on December 9, 1996. The petition listed an address for Tonya in Oconto, Wisconsin. The same address was listed for Tonya's foster parents. The petition listed an address for Tonya's father in Beaver Dam, Wisconsin.

A bench trial was held on December 26, 1996. Samantha H., an acquaintance of Tonya, testified that Tonya used to live in Beaver Dam with her father. Samantha further testified that Beaver Dam is in Dodge County. In addition, Deanna Dushek, a juvenile court intake worker with Dodge County Human Services, testified that Tonya lived with her father in Beaver Dam prior to being placed in foster care.

At the close of evidence, defense counsel moved for a directed verdict, arguing that the State failed to prove every element of each offense. The court found Tonya guilty on five counts. Tonya appeals.

The parties agree that venue in this case is governed by § 938.185(1), STATS. Under this section, venue for juvenile delinquency proceedings "may be in any of the following: (a) The county where the juvenile resides. (b) The county where the juvenile is present. (c) In the case of a violation of a state law or a county, town or municipal ordinance, the county where the violation occurred" The question presented in this case is whether Dodge

County is the county where Tonya resides, making Dodge County a proper venue under § 938.185(1)(a).

Subsequent to the filing of the briefs in this case, the supreme court decided *State v. Corey J.G.*, No. 96-3148-FT (Wis. Jan. 23, 1998). In *Corey J.G.*, the court defined the phrase “where the juvenile resides” for purposes of determining the proper venue in a juvenile delinquency proceedings.² The court concluded that the place where a juvenile resides is the juvenile’s domicile, not the juvenile’s residence. Slip op. at 19-20. The court defined “domicile” to mean “living in that locality with intent to make it a fixed and permanent home.” *Id.* at 18 (quoting BLACK’S LAW DICTIONARY 1308 (6th ed. 1990)). The court further concluded that “[a] minor child’s domicile is generally that of his or her parent or parents.” *Id.* at 21.

After the supreme court issued its opinion in *Corey J.G.*, we ordered the parties to file supplemental briefs to address the application of *Corey J.G.* to this case. In his supplemental brief, Tonya’s counsel concedes that the supreme court defined “resides” “in a manner that does not support Tonya G.’s argument.” We agree. At trial, two witnesses testified that Tonya lived with her father in Dodge County prior to her foster placement in Oconto County. Because a minor’s domicile is generally that of his or her parents, the State has established that Tonya’s domicile is located in Dodge County. Accordingly, we conclude that the State has proved that Dodge County was a proper venue for this delinquency proceeding.

² The court in *Corey J.G.* construed § 48.185, STATS., 1993-94, which governed venue in juvenile delinquency proceedings prior to the enactment of the Juvenile Justice Code, contained in Chapter 938, STATS. Because § 48.185(1), STATS., 1993-94, and § 938.185(1), STATS., are substantially identical, we follow *Corey J.G.*

By the Court.—Order affirmed.

Not recommended for publication in the official reports. *See* RULE 809.23(1)(b)4, STATS.

