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FILED
Jan 22 2009, 9:04 am
CLERK
of the supreme court, court of appeals and tax court

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IN THE
COURT OF APPEALS OF INDIANA

JAMOND HARRIS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0807-CR-586
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Richard Sallee, Senior Judge
Cause No. 49F10-0805-CM-102767

January 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Jamond Harris appeals his conviction in a bench trial for resisting law enforcement as a class A misdemeanor.[1]

We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

On May 2, 2008, Indianapolis Metropolitan Police Officers Erik Stevenson and Heidi Wise were dispatched to Dewberry Park in Marion County upon a report that shots had been fired in the area and that a black male, wearing denim shorts and a white tank top, had been seen in the area. Officer Wise observed a person—later identified as Harris—matching the suspect's description, walking out of the park. Officer Wise, who was in full police uniform, exited her marked police vehicle and ordered, "Police, come back here." (Tr. 9). Harris "took off running." *Id.* Officer Wise ordered him to stop and again identified herself as a police officer, saying "'Stop, police.'" *Id.* Harris continued running and "jumped a few fences." *Id.* Officer Wise pursued Harris, who ran back into the park and into its adjacent parking lot. Officer Wise notified the other officers at the scene of Harris' location.

Officer Stevenson then observed Harris coming out of the park. Officer Stevenson identified himself as a police officer and ordered Harris to stop, which he did. Officer

[1] Ind. Code § 35-44-3-3.

Stevenson placed Harris under arrest. Officer Wise later identified Harris as the person who had fled from her.

On May 3, 2008, the State charged Harris with Count 1, resisting law enforcement as a class A misdemeanor; and Count 2, disorderly conduct as a class B misdemeanor. The trial court held a bench trial on June 3, 2008. At the close of the State's evidence, Harris moved for involuntary dismissal of all charges pursuant to Indiana Trial Rule 41(B). The trial court sustained Harris' motion as to the disorderly conduct charge. Harris then testified that he had not run from any officers and that the officers had not said anything to him prior to his arrest by Officer Stevenson. The trial court found Harris guilty of resisting law enforcement and sentenced him to 180 days with 114 days suspended.

DECISION

Harris asserts that the evidence was insufficient to sustain his conviction for resisting law enforcement. Specifically, he argues that "there was no evidence that [he] actually heard . . . Officer Wise's commands" to stop. Harris' Br. at 3.

> When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable

> hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted).

Pursuant to Indiana Code section 35-44-3-3(a)(3), a person who knowingly or intentionally "flees from a law enforcement officer after the officer has, by visible or audible means, . . . identified himself or herself and ordered the person to stop" commits resisting law enforcement as a class A misdemeanor. Thus, in order to convict Harris of resisting law enforcement, the State must have proved that Officer Wise ordered him to stop.

Here, Officer Wise testified that she had identified herself to Harris as a law enforcement officer and ordered him to stop. She further testified that Harris ran from her, jumping fences, before running back into the park. Harris' argument that there is no evidence that he actually heard her command is merely a request to reweigh the evidence and judge the credibility of the witnesses, which we will not do. Accordingly, we find the evidence is sufficient to sustain Harris' conviction.

Affirmed.

RILEY, J., and VAIDIK, J., concur.