

Case Summary

Tracy Talley appeals his conviction for Class A misdemeanor trespass. We affirm.

Issue

Talley raises one issue, which we restate as whether the evidence is sufficient to sustain his conviction.

Facts

Talley dated Tracy Gill from August 2006 to August 2007. After their relationship ended, Gill continued to see Talley at church, and Talley continued asking her to dinner, but she refused. On the evening of February 26, 2009, Rich Burleson was visiting Gill at her house in Indianapolis when she heard the doorbell ring. Gill was expecting her ex-husband, who was supposed to pick up their child's cell phone. Gill slightly opened the door, looked outside, saw Talley, and tried to push the door shut. Talley pushed the door open and walked into Gill's residence. Gill ran through the house and stood behind Burleson, and Talley said, "you aren't going to be disrespecting me at Bethel," which is the church they attended. Tr. p. 9. Burleson tried to reason with Talley and convinced Talley to leave.

The State charged Talley with Class D felony residential entry and Class A misdemeanor battery.¹ After a bench trial, the trial court found Talley not guilty of battery and guilty of the lesser included offense of trespass as a Class A misdemeanor.

¹ The State also charged Talley with Class A misdemeanor intimidation and Class B misdemeanor battery but later dismissed those charges.

The trial court sentenced Talley to 365 days suspended and 200 days of probation. Talley now appeals.

Analysis

Talley claims that the evidence is insufficient to sustain his conviction for Class A misdemeanor trespass. When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. Bailey v. State, 907 N.E.2d 1003, 1005 (Ind. 2009). “We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence.” Id. We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. Id.

The offense of trespass is governed by Indiana Code Section 35-43-2-2(a), which provides, in part: “A person who . . . (5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person’s consent . . . commits criminal trespass, a Class A misdemeanor.” According to Talley, the evidence is insufficient because he was not asked to leave Gill’s residence, he had not previously been denied entry to her residence, and he did not knowingly or intentionally enter the residence without Gill’s consent. Gill testified that she heard the doorbell ring, slightly opened the door, looked outside, saw Talley, and tried to push the door shut. Talley pushed the door open and walked into Gill’s residence. During his bench trial, Talley admitted that, after Gill opened the door, she “[s]lammed” the door on him, but he entered the house anyway. Tr. p. 35. When Gill tried to slam the door, it should have

been evident that Talley did not have her consent to enter the residence. This evidence is sufficient to demonstrate that Talley knowingly or intentionally entered Gill's residence without Gill's consent. Talley's argument to the contrary is merely a request that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do.

Conclusion

The evidence is sufficient to sustain Talley's conviction for Class A misdemeanor trespass. We affirm.

Affirmed.

BAKER, J., and VAIDIK, J., concur.