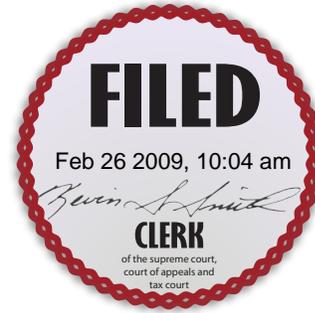


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

DEANNA CLARK,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 49A05-0808-CR-472

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Jose D. Salinas, Judge
Cause No. 49G14-0802-FD-39204

February 26, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Deanna Clark (“Clark”) appeals her conviction for Obtaining a Controlled Substance by Fraud or Deceit, a Class D felony,¹ presenting the sole issue of whether the evidence is sufficient. We affirm.

Facts and Procedural History

On February 12, 2008, Mary Brown (“Brown”) was working as a pharmacist at an Indianapolis CVS pharmacy when she received a telephone call that was purportedly from Dr. Bryan McRae (“Dr. McRae”). The caller prescribed thirty hydrocodone tablets for Clark. Brown became suspicious, in part because the call was placed after 5:00 p.m. and the caller seemed overly friendly. Brown contacted Dr. McRae, a surgery resident at Indiana University, and he denied calling in a prescription for Clark.

At approximately 8:00 p.m. that evening, a woman came to the CVS pharmacy counter, identified herself as Deanna Clark, and requested her prescription. Brown alerted a technician to summon police. She then told Clark that there was a problem with the Drug Enforcement Agency number² required for the hydrocodone prescription and Clark said “she’d call the doctor.” (Tr. 18.) Clark contacted someone who spoke with Brown and purported to be a doctor authorizing the prescription. Brown released the hydrocodone to Clark, police arrived, and Clark was arrested.

¹ Ind. Code § 35-48-4-14(c).

² Brown testified that each doctor is issued a Drug Enforcement Agency number allowing them to prescribe controlled substances.

The State charged Clark with Obtaining a Controlled Substance by Fraud or Deceit and Possession of a Controlled Substance. On July 10, 2008, Clark was tried in a bench trial and convicted of Obtaining a Controlled Substance by Fraud or Deceit.³ Clark was sentenced to 365 days imprisonment, with 361 days suspended to probation. This appeal ensued.

Discussion and Decision

Clark contends that the evidence is insufficient to sustain her conviction because there was not, in fact, a problem with the Drug Enforcement Agency number used in the telephonic prescription. Where a defendant challenges the sufficiency of the evidence to support a conviction, we neither reweigh the evidence nor judge the credibility of witnesses. Prickett v. State, 856 N.E.2d 1203, 1206 (Ind. 2006). The factfinder is responsible for determining whether the evidence in a particular case is sufficient to satisfy each element of an offense. Id. We will affirm a conviction if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Id.

The State alleged that Clark violated Indiana Code Section 35-48-4-14(c), which provides in relevant part:

A person who knowingly or intentionally acquires possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, alteration of a prescription order, concealment of a material fact, or use of a false name or false address commits a Class D felony.

³ The disposition of the Possession count is not made entirely clear by the record; however, the State and Clark agree that Clark was acquitted of that charge.

Brown testified that she received a suspicious call authorizing a prescription for thirty hydrocodone tablets, a controlled substance, for Clark. The name given by the caller was that of Dr. McRae. However, when Brown contacted Dr. McRae at the hospital where he worked, Dr. McRae denied prescribing hydrocodone for Clark. Brown further testified that Clark came into the CVS pharmacy later that evening, identified herself verbally and by presenting her driver's license, and requested her prescription. Once Clark was told there was a problem, she placed a telephone call. Brown then received a second call, purportedly from Dr. McRae, authorizing the hydrocodone prescription. Brown released the hydrocodone tablets and Clark took possession of them. Dr. McRae testified that, to the best of his recollection, he had never treated Clark. He denied authorizing a prescription for her, telephonically or otherwise, on February 12, 2008.

Accordingly, there is sufficient evidence of probative value from which the factfinder could conclude that Clark knowingly obtained hydrocodone through fraud or deceit.

Affirmed.

MATHIAS, J., and BARNES, J., concur.