

Case Summary

Eric Proffitt appeals his conviction for Class B misdemeanor resisting law enforcement. We affirm.

Issue

Proffitt raises one issue, which we restate as whether there was sufficient evidence to support his conviction.

Facts

Indianapolis Metropolitan Police Officer Kevin Larussa responded to a shots fired call in the early morning hours of February 16, 2008. Officer Larussa was circling the block in his police cruiser while another officer went to the location of the call. Officer Larussa noticed two men crossing the middle of the street and drove toward them. The men turned to look at him and then began running. Officer Larussa was approximately a half block away from the men. He turned on his red and blue lights and siren, but the men continued running.

The officers on the scene set up a perimeter and used a canine unit to assist in locating the men. Within approximately fifteen to thirty minutes, officers discovered Proffitt laying in the back of a nearby pickup truck. Proffitt had bloodshot eyes and slurred speech and smelled of alcohol.

On February 16, 2008, the State charged Proffitt with Class A misdemeanor resisting law enforcement and Class B misdemeanor public intoxication. Following a bench trial, Proffitt was convicted of Class A misdemeanor resisting law enforcement and

sentenced to one year suspended. The trial court found he was not guilty of the public intoxication charge. This appeal followed.

Analysis

Proffitt argues that there is insufficient evidence to support his conviction. When reviewing the sufficiency of the evidence supporting a conviction, we will not reweigh the evidence or judge the credibility of witnesses. Staton v. State, 853 N.E.2d 470, 474 (Ind. 2006). We must look to the evidence most favorable to the conviction together with all reasonable inferences to be drawn from that evidence. 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.

A person commits Class A misdemeanor resisting law enforcement if he or she knowingly or intentionally flees from a law enforcement officer after the officer has, by visual or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop. Ind. Code § 35-44-3-3(a)(3). Proffitt argues that there is insufficient evidence to support his conviction because he was never ordered to stop by an officer. The statute contemplates, however, that activation of lights or a siren constitutes an order to stop. See also Spears v. State, 412 N.E.2d 81, 83 (Ind. Ct. App. 1980) (holding that the language chosen in the resisting law enforcement statute means that “visible or audible” modifies both “identified” and “ordered”).

Officer Larussa was in a marked police cruiser and in full uniform. Proffitt and the other man looked at the police cruiser, turned to run from it, and then the lights and sirens were activated as they ran from the scene. Even though Proffitt's back was to the cruiser, a reasonable person would have realized that the surrounding illumination of red and blue lights with an activating siren indicated the identity of an officer and the officer's order to stop. The statute expressly provides that operation of a police cruiser's lights or sirens can serve as a visible and audible means to identify the officer and order a stop. See I.C. § 35-44-3-3(a)(3). The officer is not required by the statute to exit the car and make verbal commands. Sufficient evidence existed to support Proffitt's conviction.

Conclusion

The State presented sufficient evidence to convict Proffitt of Class A misdemeanor resisting law enforcement. We affirm.

Affirmed.

BAILEY, J., and MATHIAS, J., concur.