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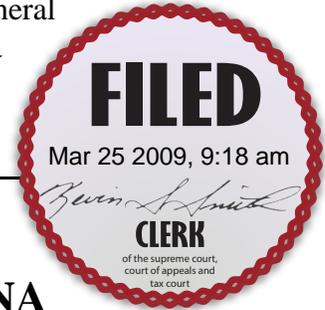
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**IN THE
COURT OF APPEALS OF INDIANA**

TROY D. McCORMICK,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 53A05-0810 CR-571

APPEAL FROM THE MONROE CIRCUIT COURT
The Honorable Marc R. Kellams, Judge
Cause No. 53C02-0704-FD-309

March 25, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Troy McCormick appeals his conviction and sentence for class D felony resisting law enforcement. We affirm.

Issues

- I. Whether the State failed to prove venue; and
- II. Whether McCormick's sentence is inappropriate given his character and the nature of the offense.

Facts and Procedural History

On March 17, 2007, at approximately 3:10 a.m., Indiana State Police Trooper Mike Adams was on patrol on State Road 46 heading towards Ellettsville. He spotted a vehicle driving eighty miles an hour and activated his lights and siren to get the driver to stop. The driver, McCormick, increased his speed. Trooper Adams pursued the vehicle. McCormick's vehicle blew a tire and slowed to approximately thirty to forty miles per hour. After driving about six or seven miles, McCormick's vehicle stopped on Garrison Chapel Road. Trooper Adams pulled his car up to McCormick's car door to prevent him from escaping, but McCormick and his passenger exited through the passenger's door and fled.

On March 18, 2007, McCormick called the Indiana State Police Post to report his car stolen. Trooper Adams informed McCormick that he would need to come to the post to pick up the car. McCormick went to retrieve his car the next day, and Trooper Adams accused McCormick of driving the car. The State charged McCormick with class D felony resisting law enforcement.

At the close of the trial, McCormick moved for a directed verdict for failure to

establish venue. The trial court took judicial notice that the map used by Trooper Adams during his testimony about the car chase was of Monroe County and denied the motion. On April 24, 2008, a jury found McCormick guilty as charged. The trial court sentenced McCormick to three years with all but 240 days suspended.

Discussion and Decision

I. Venue

“The right to be tried in the county in which an offense was committed is a constitutional and statutory right.” *Baugh v. State*, 801 N.E.2d 629, 631 (Ind. 2004) (citing IND. CONST. art. 1, § 13 and Ind. Code § 35-32-2-1(a)). The State must prove venue by a preponderance of the evidence. *Id.* McCormick challenges the sufficiency of the evidence supporting venue in Monroe County. Our standard of review for sufficiency of the evidence supporting venue is the same as any other claim of sufficiency of the evidence. *Weiss v. State*, 735 N.E.2d 1194, 1196 (Ind. Ct. App. 2000). “We neither reweigh the evidence nor reassess the credibility of witnesses.” *Id.* We will consider the evidence supporting the factfinder’s determination and the reasonable inferences that can be drawn therefrom. *Id.* We will uphold the conviction “if there is evidence of probative value from which a reasonable trier of fact could conclude that the defendant was tried in the proper venue.” *Id.*

McCormick alleges that the evidence is ambiguous as to the county in which the car chase took place. However, Trooper Adams stated that the car chase ended in “rural Monroe

County.” Tr. at 65. This testimony is sufficient to establish venue.¹ Therefore, we affirm McCormick’s conviction.

II. Sentencing

McCormick contends that his sentence is inappropriate in light of his relatively minor criminal history and his ability to successfully complete probation. Indiana Appellate Rule 7(B) permits an appellate court to “revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” The defendant bears the burden to establish that his sentence is inappropriate. *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind. 2007), *clarified on reh’g*, 875 N.E.2d 218.

The advisory sentence is the appropriate starting place for evaluating the nature of the offense. *Harris v. State*, 897 N.E.2d 927, 929 (Ind. 2008). The advisory sentence for a class D felony is one and one-half years, and the maximum sentence is three years. McCormick’s offense involved a high-speed car chase, which is one of the most dangerous means of resisting law enforcement. The car chase lasted for six or seven miles, and McCormick ran two red lights. Although no one was injured, the result could have been much worse.

As for McCormick’s character, he has had three prior convictions: class A misdemeanor possession of marijuana in 1998, class A misdemeanor operating while intoxicated in 2004, and class A misdemeanor driving while suspended in 2005. His criminal

¹ McCormick alleges that the trial court’s taking judicial notice of the map was improper. Even if taking judicial notice was improper, the error was harmless because Trooper Adams’s testimony is alone sufficient to establish venue in Monroe County.

record and his commission of the instant offense demonstrate his lack of respect for the law.

McCormick has failed to establish that his sentence is inappropriate. Therefore, we affirm.

Affirmed.

ROBB, J., and BROWN, J., concur.