



Following a bench trial in Marion Superior Court, Joseph Shafer (“Shafer”) was convicted of Class A misdemeanor battery on a law enforcement officer. Shafer appeals and argues that the evidence is insufficient to support his conviction. We affirm.

### **Facts and Procedural History**

On the afternoon of July 11, 2007, Indianapolis Metropolitan Police Officer Douglas Lepsky responded to a report of a domestic disturbance at a house in Indianapolis. When Officer Lepsky arrived at the house, Shafer was sitting on the front porch. Officer Lepsky told Shafer that he was looking for an individual named Curtis Kelly, and Shafer stated that Kelly was inside the house. Officer Lepsky asked if Shafer lived at the house, to which Shafer responded, “yes.” Tr. p. 9. Officer Lepsky also asked Shafer if he had items inside the house that belonged to him, and Shafer again responded, “yes.” *Id.* Officer Lepsky asked Shafer for permission to enter the house, and Shafer consented. Shafer stood up and began to walk to the front door rather quickly. Officer Lepsky asked Shafer to wait for him. Instead, Shafer continued through the door. When Officer Lepsky began to enter the doorway, Shafer slammed the heavy, wooden door on Officer Lepsky’s leg. Shafer slammed the door so hard that his body spun around. When Officer Lepsky opened the door off his leg, Shafer told him to “get the f\*\*\*k out of his house.” Tr. p. 11. Officer Lepsky then handcuffed Shafer and arrested him.

On July 12, 2007, the State charged Shafer with Class A misdemeanor battery on a law enforcement officer. See Ind. Code § 35-42-2-1(1)(B) (2004). At a bench trial held on May 13, 2008, both Officer Lepsky and Shafer testified. After Officer Lepsky’s testimony set forth above, Shafer testified that he was only a guest at the house and did

not slam the door on Officer Lepsky. The trial court found Shafer guilty as charged. The trial court subsequently sentenced Shafer to 365 days, with 361 days suspended pending completion of community service. Shafer filed a motion to correct error on June 12, 2008, which the trial court denied on July 24, 2008. Shafer now appeals.

### **Discussion and Decision**

Upon review of a claim of insufficient evidence, our standard of review is well settled. We neither reweigh the evidence nor assess the credibility of the witnesses. Warr v. State, 877 N.E.2d 817, 823 (Ind. Ct. App. 2007), trans. denied. We consider only the evidence most favorable to the conviction and reasonable inferences drawn therefrom, and we will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. Id.

Shafer first argues that Officer Lepsky did not have authority to enter the house and that he therefore had the right to resist this allegedly unlawful entry. See Robinson v. State, 814 N.E.2d 704, 707 (Ind. Ct. App. 2004) (noting that Indiana recognizes the right to reasonably resist the unlawful entry of a police officer into a person's home). We first note that this argument is based on Shafer's testimony that he did not give the officer permission to enter the house. We, however, may only consider the evidence most favorable to the conviction. Warr, 877 N.E.2d at 823. Officer Lepsky testified that Shafer did give him permission to enter the home.

Shafer also argues that his act of walking quickly to the door and not stopping when asked were evidence that he did not want the police to enter the house. However, Shafer had already explicitly told Officer Lepsky that he could enter the house, and his

action of walking quickly and not stopping when asked were not a clear revocation of this consent to enter. If Shafer did not want Officer Lepsky to enter the house, he could and should have told him so.

Shafer further claims that the State did not prove that he intended to slam the door on Officer Lepsky's leg because the evidence shows that he had his back turned when he slammed the door. The intent to commit a battery may be determined from a consideration of the defendant's conduct and the natural and usual sequence to which such conduct logically and reasonably points. Wells v. State, 555 N.E.2d 1366, 1371 (Ind. Ct. App. 1990). To convict Shafer as charged, the State was required to prove that he knowingly or intentionally touched a law enforcement officer in a rude, insolent, or angry manner.<sup>1</sup> I.C. § 35-42-2-1(1)(B). "A person engages in conduct 'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." Ind. Code § 35-41-2-2(b) (2004).

Here, Shafer told Officer Lepsky that he could enter the house. Then, as Officer Lepsky entered the house, Shafer slammed a heavy, wooden door on his leg. Although Shafer was not initially facing Officer Lepsky, he slammed the door so hard that he made a "full turn" around so that Officer Lepsky could see his face. From this conduct, the trial court could reasonably conclude that when Shafer slammed the door, he was aware of a high probability that the door would touch Officer Lepsky. Shafer's subsequent comment to "get the f\*\*k out of his house" further supports the reasonable inference that Shafer touched Officer Lepsky in a rude, insolent, or angry manner.

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<sup>1</sup> It is undisputed that Officer Lepsky was a law enforcement officer.

Under these facts and circumstances, the evidence presented by the State was sufficient to support Shafer's conviction for battery on a law enforcement officer.

Affirmed.

BAILEY, J., and CRONE, J., concur.