

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.

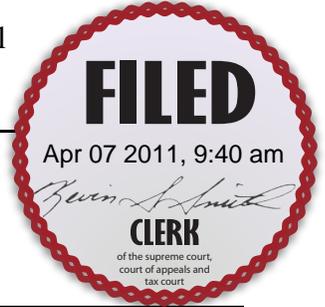
ATTORNEY FOR APPELLANT:

BARBARA J. SIMMONS
Oldenburg, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

BRIAN REITZ
Deputy Attorney General
Indianapolis, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

JACOB M. JONES,)

Appellant- Defendant,)

vs.)

No. 49A02-1009-CR-959)

STATE OF INDIANA,)

Appellee- Plaintiff,)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Melissa Kramer, Commissioner
Cause No. 49G17-1006-CM-51276

April 7, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Chief Judge

Case Summary and Issue

Following a bench trial, Jacob M. Jones appeals his conviction for invasion of privacy, a Class A misdemeanor. On appeal, Jones raises the sole issue of whether sufficient evidence was presented to support his conviction. Concluding that sufficient evidence supports Jones's conviction, we affirm.

Facts and Procedural History

Jones and Carmella King had dated for about eight or nine months before their relationship ended. On May 17, 2010, a no contact order was entered in connection with a separate charge, ordering Jones in relevant part to “HAVE NO CONTACT WITH[] Carmella King . . . by telephone . . ., through an intermediary, or in any other way, directly or indirectly, except through an attorney of record . . .” Exhibits at 2.

King later testified that Jones had called her cellular phone at least once in the early morning hours of June 16, 2010, although she did not answer. She testified she had saved his phone number on her cellular phone while they dated, and that her cellular phone recognized his number when he called. King also testified that following his call on June 16, Jones sent her over forty text messages over the course of about the next twelve hours. Through King's testimony, the State introduced into evidence – over Jones's objection – several photographs of Jones's purported text messages on the screen of King's cellular phone.

The trial court found Jones guilty of invasion of privacy as a Class A misdemeanor and sentenced him to a one-year executed sentence, of which three hundred thirty-five days are to be served in home detention. Jones now appeals.

Discussion and Decision

I. Standard of Review

Our standard of reviewing a sufficiency claim is well-settled: we do not assess witness credibility or weigh the evidence, and “we consider only the evidence that is favorable to the judgment along with the reasonable inferences to be drawn therefrom to determine whether there was sufficient evidence of probative value to support a conviction.” Staten v. State, 844 N.E.2d 186, 187 (Ind. Ct. App. 2006), trans. denied. “We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt.” Id.

II. Invasion of Privacy

To convict Jones of invasion of privacy, the State had to prove beyond a reasonable doubt that Jones knowingly or intentionally violated a “no contact order issued as a condition of pretrial release” Ind. Code § 35-46-1-15.1(5).

Jones argues that King’s testimony regarding his phone call and text messages is insufficient to support his conviction because her testimony is not believable or certain beyond a reasonable doubt. As Jones notes, there is a possibility that Jones did not personally send the text messages to King, or that the text messages were not sent from Jones’s correct phone number at all. Further, King’s testimony may be characterized as uncorroborated testimony or circumstantial evidence.

However, a conviction may be based upon circumstantial evidence alone, Hoover v. State, 918 N.E.2d 724, 731 (Ind. Ct. App. 2009), trans. denied, or upon the uncorroborated testimony of one witness alone. Gleaves v. State, 859 N.E.2d 766, 769

(Ind. Ct. App. 2007). In addition, Jones's argument directly calls for our assessment of King's credibility, which we will not do. See Staten, 844 N.E.2d at 187. The trial court assessed King's credibility and considered Jones's argument at trial of the possibility that Jones did not send text messages to King. The trial court determined Jones to be guilty beyond a reasonable doubt, and we refuse to reassess King's credibility or reweigh the effect of her testimony. Accordingly, King's testimony is sufficient to support Jones's conviction, and we therefore affirm.

Conclusion

Sufficient evidence supports Jones's conviction for invasion of privacy as a Class A misdemeanor.

Affirmed.

NAJAM, J., and CRONE, J., concur.