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**IN THE  
COURT OF APPEALS OF INDIANA**

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BRIAN REDD, )  
)  
Appellant/Defendant, )  
)  
vs. )  
)  
STATE OF INDIANA, )  
)  
Appellee/Plaintiff. )

No. 02A03-1010-CR-533

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable John F. Surbeck, Jr., Judge  
Cause No. 02D04-1006-FC-125

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April 7, 2011

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BRADFORD, Judge**

Appellant/Defendant Brian Redd challenges the sufficiency of the evidence supporting his conviction for Class C felony Child Molesting.<sup>1</sup> We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On December 11, 2009, thirteen-year-old S.S. was waiting for the school bus to pick her up and transport her to school. While S.S. was waiting for the bus, Redd approached her, gave her a hug, and kissed her on the lips. S.S. later reported that during this kiss, Redd's tongue passed through her lips and entered her mouth. Redd left after S.S. became scared and turned away. When the bus arrived, S.S. boarded the bus and told a friend what Redd had done. S.S.'s friend suggested that S.S. notify someone. After arriving at school, S.S. reported the incident to her guidance counselor. S.S.'s guidance counselor notified S.S.'s mother and contacted the police. Detective Rodney Hormann of the New Haven Police Department subsequently interviewed Redd about the incident. Redd admitted that he had kissed S.S., but stated that while his tongue touched S.S.'s lips, it did not enter her mouth. Redd also admitted that he had two previous convictions for child molesting – one in Arizona and one in California.

On June 15, 2010, the State charged Redd with Class C felony child molesting and with being a repeat sexual offender. A bench trial was conducted on September 9, 2010, at which Redd repeated that he kissed S.S. and placed his tongue on her lips, but claimed that he did not do so to satisfy any sexual desires. The trial court found Redd guilty as charged

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<sup>1</sup> Ind. Code § 35-42-4-3 (2009).

and imposed an aggregate eight-year sentence.<sup>2</sup> This appeal follows.

## DISCUSSION AND DECISION

Redd contends that the evidence presented at trial was insufficient to support his Class C felony child molesting conviction. Specifically, Redd claims that the evidence was insufficient to prove the intent element of child molesting.

The standard for reviewing sufficiency of the evidence claims is well settled. We do not reweigh the evidence or assess the credibility of the witnesses. Rather, we look to the evidence and reasonable inferences drawn therefrom that support the verdict and will affirm the conviction if there is probative evidence from which a reasonable [fact-finder] could have found the defendant guilty beyond a reasonable doubt.

*Stewart v. State*, 768 N.E.2d 433, 435 (Ind. 2002).

In order to convict Redd of Class C felony child molesting, the State was required to prove that Redd (1) performed or submitted to any fondling or touching; (2) with a child under the age of fourteen; (3) with the intent to arouse or to satisfy the sexual desires of either the child or himself. Indiana Code § 35-42-4-3. Mere touching alone is not sufficient to constitute the crime of child molesting. *Nuerge v. State*, 677 N.E.2d 1043, 1048 (Ind. Ct. App. 1997), *trans. denied*. The State must also prove beyond a reasonable doubt that the act of touching was accompanied by the specific intent to arouse or satisfy sexual desires. *Id.* The intent element of child molesting may be established by circumstantial evidence and may be inferred ““from the actor’s conduct and the natural and usual sequence to which such conduct usually points.”” *Id.* (quoting *Pedrick v. State*, 593 N.E.2d 1213, 1220 (Ind. Ct. App.

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<sup>2</sup> Redd does not challenge the trial court’s determination that he is a repeat sexual offender or his sentence on appeal.

1992).

Here, the facts most favorable to the judgment show that Redd kissed S.S., whom he knew to be thirteen years old, on the lips. Redd admitted and S.S. testified that that Redd used his tongue in kissing S.S. We conclude that the trial court reasonably inferred from Redd's conduct and the natural and usual sequence associated with "tongue kissing" that Redd intended to arouse or satisfy sexual desires. *See id.*; *see also Horton v. State*, 936 N.E.2d 1277, 1288 (Ind. Ct. App. 2010) (affirming nine counts of child molestation which included, among other acts, sexual molestation by "tongue kissing"). Accordingly, we affirm the judgment of the trial court.

The judgment of the trial court is affirmed.

KIRSCH, J., and CRONE, J., concur.