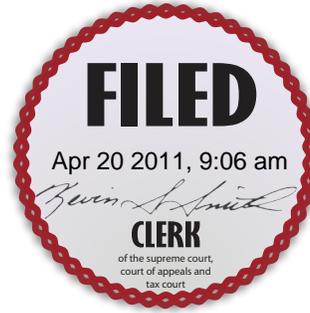


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

JAMES LEE-VAUGHN WHITE II,)

Appellant-Defendant,)

vs.)

No. 71A04-1009-CR-586

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable Jerome Frese, Judge
Cause No. 71D03-1005-FD-424

April 20, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant-Defendant James Lee-Vaughn White II appeals following his conviction for Class D felony Theft¹ and the finding that he is a Habitual Offender.² Upon appeal, White challenges the sufficiency of the evidence to support his theft conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

On May 5, 2010, Lacle Williams and her sister Lateresa were driving in Lacle's car in St. Joseph County. Lacle and Lateresa were in the driver's seat and front passenger seat, respectively. Lacle's purse, which contained cash, vicodin pills, and various identification and Medicaid cards, was in the backseat, behind the front passenger seat, at the time. At some point, Lacle stopped to pick up White. White was carrying a large bag at the time and sat in the backseat of the car, behind the driver's seat. Lacle took White to a liquor store, where she gave him ten dollars. He used five dollars there and gave her five dollars in change. Lacle then took White to his cousin's home, where she dropped him off. White took his bag, which was large enough to contain her purse, when he left. Shortly thereafter, Lacle noticed that her purse was missing.

On May 18, 2010, the State charged White with Class D felony theft and alleged him to be a habitual offender. In an August 9, 2010 bench trial, White testified in his own defense following Lacle's and Lateresa's testimony against him. According to White, their story about giving him a ride and their accusations of theft were entirely

¹ Ind. Code § 35-43-4-2 (2009).

² Ind. Code § 35-50-2-8 (2009).

false and were made in response to an FBI raid of Lacole's home, which White believed Lacole thought he was responsible for.

The trial court found White guilty of Class D felony theft, after which the parties stipulated to his habitual offender status. Upon entering judgment of conviction, the trial court sentenced White to two and one-half years for theft enhanced by eighteen months on the habitual offender count for a total sentence of four years in the Department of Correction. This appeal follows.

DISCUSSION AND DECISION

Upon appeal, White challenges the sufficiency of the evidence to support his theft conviction. White points out that neither Lacole nor Lateresa saw him take the purse, and that he returned Lacole's change from the liquor store. White urges this court to accept his theory that the accusations against him were merely out of revenge.

In evaluating the sufficiency of the evidence to support White's conviction, we do not reweigh the evidence or judge the credibility of the witnesses. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* 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.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998).

The trial court was within its fact-finding authority to credit Lacole's and Lateresa's testimony that White was in the backseat of their car, that he alone was there, that Lacole's purse was also in the backseat, that White was carrying a bag large enough to hold the purse, and that shortly after he left the backseat with his bag, the purse was missing. The trial court was further within its discretion to draw the reasonable inference from this evidence that White had taken Lacole's purse, his prior willingness to return Lacole's change notwithstanding. As for White's contention that the testimony against him was false and purely a product of vengeance, this is merely an invitation to reweigh the evidence, which we decline to do.

The judgment of the trial court is affirmed.

BAKER, J., and MAY, J., concur.