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**IN THE
COURT OF APPEALS OF INDIANA**

WILLIE C. ADAMS,)
)
Appellant-Defendant,)
)
vs.) No. 43A03-0808-CR-387
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE KOSCIUSKO SUPERIOR COURT
The Honorable James C. Jarrette, Judge
Cause No. 43D02-0801-FD-1

April 21, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Willie C. Adams appeals his conviction of intimidation. Finding the evidence sufficient, we affirm.

FACTS AND PROCEDURAL HISTORY

On January 9, 2008, EMS received a call of a “man down.” (Tr. at 109.) Officer Brian Martin was nearby and also responded to the call. He found Adams laying motionless on the ground. Officer Martin noticed Adams smelled of alcohol and asked him if he had been drinking. Adams admitted that he had. EMS arrived and restrained Adams on a backboard with a “C collar.” (*Id.* at 77.) He was taken to the hospital for a medical evaluation.

After he arrived at the hospital, Adams was uncooperative and disrespectful to the staff. He removed the collar and restraints. He was yelling profanities and swinging his arms. Nurse Angela Chivington felt threatened and asked someone to call the police for assistance. Officer Martin and Officer Brad Kellar came to the hospital and managed to calm Adams. Soon after the officers left, Adams began yelling loudly and behaving unpredictably. The officers were called back to the hospital, and they stayed until Adams was cleared medically.

The officers then placed Adams under arrest for public intoxication. As they escorted Adams to Officer Martin’s patrol car, Adams was yelling that they did not have any right to have him in custody. The video from inside Officer Martin’s car shows Adams continued to protest his arrest, claiming he had been arrested for no reason and could not be arrested in a hospital. He claimed the officers did not know the law, and his tirade was laced with profanities and insults.

When Adams arrived at the jail for booking, he was told to sit down, but he kept getting up. Travis Nichols, who is responsible for booking inmates, testified Adams said, “F*** you and . . . go to hell. I shouldn’t f***ing be here. I shouldn’t be arrested.” (*Id.* at 133.) Officer Martin testified Adams “continued to yell and, at one point, I got him to sit down and he looked directly in my eyes and told me he was going to kill me.” (*Id.* at 119.) Officer Martin asked him, “What did you just say?” and Adams repeated his threat. (*Id.*) At that point, Adams was placed in a restraint chair. The booking was not finished until about an hour later, when Adams finally calmed down.

The jury found Adams guilty of Class D felony intimidation¹ and Class B misdemeanor disorderly conduct.²

DISCUSSION AND DECISION

When reviewing sufficiency of evidence, we do not reweigh the evidence or judge the credibility of witnesses. *Slayton v. State*, 755 N.E.2d 232, 237 (Ind. Ct. App. 2001). We consider the evidence favorable to the verdict and the reasonable inferences to be drawn therefrom. *Id.* We will affirm if there is substantial evidence of probative value from which a jury could have found the defendant guilty beyond a reasonable doubt. *Id.*

The State was required to prove Adams communicated a threat to Officer Martin with the intent to place Officer Martin in fear of retaliation for a prior lawful act. Ind. Code § 35-45-2-1(a)(2). Adams concedes he communicated a threat to Officer Martin, but contends there was insufficient evidence he intended to place Officer Martin in fear of retaliation for a prior lawful act. We disagree.

¹ Ind. Code § 35-45-2-1(a)(2) and (b)(1)(B)(i).

² Ind. Code § 35-45-1-3. Adams does not challenge this conviction on appeal.

Adams' case is similar to *Slayton*, where we found the following evidence sufficient to support a conviction of intimidation:

Dubois County Deputy Kleinhelter testified that he was dispatched to meet a deputy from Orange County at the county line to pick up Slayton and transport him to the Dubois County Jail. Kleinhelter further testified that Slayton became resistant and struck him while he was being processed at the jail. Slayton repeatedly told Kleinhelter he "was going to get" him and that he had "better watch [his] back." Under our deferential standard of review, this is sufficient evidence that Slayton intended to place Kleinhelter in fear for his lawful acts of transporting him to the jail and processing him there.

Slayton, 755 N.E.2d at 237 (citation omitted).³ See also *Townsend v. State*, 753 N.E.2d 88, 90-91 (Ind. Ct. App. 2001) (finding sufficient evidence of intimidation where Townsend threatened officer while officer was transporting Townsend to jail after arresting him for disorderly conduct), *abrogated on other grounds by Fajardo v. State*, 859 N.E.2d 1201 (Ind. 2007).

As in *Slayton*, the context of Adams' threat would permit a reasonable jury to conclude Adams intended to place Officer Martin in fear of retaliation for his arrest. While in the patrol car, Adams claimed he had been arrested for no reason, the officers could not arrest him in a hospital, and the officers did not know the law. After they arrived at the jail, Adams looked Officer Martin in the eye and threatened to kill him.

Adams argues his case is similar to *Casey v. State*, 676 N.E.2d 1069 (Ind. Ct. App. 1997). Casey went to Kimberly's house, where he attacked Russo and then told Kimberly, "You're next bitch." *Id.* at 1071. Casey was convicted of intimidating Kimberly. In reviewing the sufficiency of the evidence, we noted Casey's threat did "not

³ We reversed Slayton's conviction because he had not knowingly and intelligently waived his right to counsel; however, we reviewed the sufficiency of the evidence to determine whether he could be retried.

demonstrate his reasons for threatening Kimberly or indicate that he was doing so because of any specific prior act.” *Id.* at 1073. Adams argues the evidence is insufficient in his case because he did not say why he wanted to kill Officer Martin.

In *Casey*, the State had not alleged or proved a prior lawful act by Kimberly, but relied on the fact that Kimberly was not doing anything illegal when she was threatened. Under those circumstances, we found it significant that the threat itself did not refer to any prior lawful conduct. *See Graham v. State*, 713 N.E.2d 309, 312 (Ind. Ct. App. 1999) (rejecting Graham’s argument that evidence was insufficient under *Casey* because Graham’s statement did not indicate his reason for threatening the victim), *trans. denied* 726 N.E.2d 299 (Ind. 1999). Adams, however, made his threat after protesting his arrest and while he was disrupting the booking process. Therefore, it is reasonable to infer his threat was in response to his arrest.

Adams also argues “it can be inferred that Adams was mainly just belligerent, intoxicated and angry.” (Appellant’s Br. at 9.) However, that inference is not favorable to the verdict, and we decline Adams’ invitation to reweigh the evidence.

Affirmed.

FRIEDLANDER, J., and BRADFORD, J., concur.