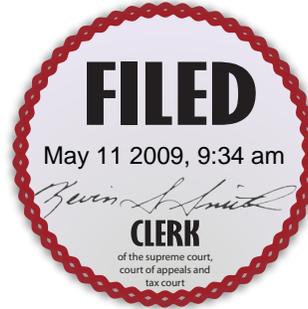


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

SHAWN WOODS,)
)
 Appellant-Defendant,)
)
 vs.) No. 84A01-0812-CR-570
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE VIGO SUPERIOR COURT
The Honorable David R. Bolk, Judge
Cause No. 84D03-0805-FB-1629

May 11, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Shawn Woods appeals his conviction of Unlawful Possession of a Firearm by a Serious Violent Felon,¹ a class B felony. Upon appeal, Woods challenges the sufficiency of the evidence supporting that conviction as the sole issue on appeal.

We affirm.

The facts favorable to the conviction are that on May 12, 2008, members of the Terre Haute City Police Department served an arrest warrant on Woods after tracking him down with the assistance of a confidential informant. Officer Curt Brinegar recognized Woods sitting in a vehicle and ordered him out of the car. After Woods was placed in handcuffs, he was patted down by Officer David Rafter. Officer Rafter discovered a pistol in one of Woods's jacket pockets. The pistol was confiscated and Woods was taken away. On that same day, Woods was charged with possession of a firearm by a serious violent felon as a class B felony. A jury trial on that charge was held, after which Woods was found to be guilty as charged. He was sentenced to fourteen years imprisonment.

Woods contends the evidence is not sufficient to support the conviction. Our standard of review for challenges to the sufficiency of evidence is well settled.

When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh conflicting evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and "must affirm 'if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.'" *Id.* at 126 (quoting *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

¹ Ind. Code Ann. § 35-47-4-5 (West, PREMISE through 2008 2nd Regular Sess.).

Gleaves v. State, 859 N.E.2d 766, 769 (Ind. Ct. App. 2007).

The gist of Woods's argument on appeal is that there was not sufficient evidence to prove that he knew the gun was in the pocket of the jacket he was wearing. Thus, he claims, there was insufficient evidence to prove the element of *knowing* possession. In support of his argument, Woods notes the following facts: (1) The gun was not registered to Woods; (2) Woods did not attempt to flee when confronted by police; (3) the gun was not loaded and ammunition for the gun was not found on or near Woods's person at the time of arrest; and (4) "the State did not show Woods was wearing the jacket longer than a short period of time[.]" *Appellant's Brief* at 5.

Even assuming all of the above facts to be true, the evidence was sufficient. Although any or all of the facts Woods mentions might support an inference that he did not know the gun was in his jacket pocket, such is not the only, or indeed even the most reasonable, inference that may be drawn. Knowledge and intent are mental states and, absent an admission by defendant, the trier of fact must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant had the requisite knowledge and intent to commit the offense in question. *Johnson v. State*, 837 N.E.2d 209 (Ind. Ct. App. 2005), *trans. denied*. Notwithstanding the facts Woods highlights, we cannot simply ignore that the gun *was* found in his pocket and he was alone in his car at the time of his arrest. This certainly permits a reasonable inference that he knew the gun was there.

In the final analysis, Woods made this argument to the jury and the jury rejected it. Respecting the fact-finder's exclusive province to weigh conflicting evidence, we decline to

second-guess a jury's determination so long as the inferences drawn to reach its determination of guilt are reasonable. *McHenry v. State*, 820 N.E.2d 124. In this case, the inference that Woods knew there was a gun in his pocket was reasonable. The evidence was sufficient to support the conviction.

Judgment affirmed.

NAJAM, J., and VAIDIK, J., concur.