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IN THE
COURT OF APPEALS OF INDIANA

JAMES SPANN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1009-CR-588
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Barbara F. Collins, Judge
The Honorable John J. Boyce, Commissioner
Cause No. 49F08-1007-CM-57768

May 12, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

James Spann appeals his conviction for obstructing traffic as a class A misdemeanor.[1] Spann raises one issue which we revise and restate as whether the evidence is sufficient to sustain his conviction. We affirm.

The facts most favorable to Spann's conviction follow. On July 24, 2010, Indianapolis Metropolitan Police Officer Grace Lopez and three other police officers were directing traffic around an accident which had occurred at the intersection of Meridian Street and Fall Creek Parkway in Indianapolis, Indiana. Officer Lopez was directing all vehicles traveling eastbound on Fall Creek Parkway to turn southbound onto Meridian Street, and her marked patrol vehicle was parked in the left lane of eastbound Fall Creek Boulevard to block traffic.

Officer Lopez observed a green car, which was driven by Spann, traveling eastbound on Fall Creek Boulevard and attempting to turn north onto Meridian Street. Officer Lopez walked around her patrol vehicle and directed Spann to turn southbound. Spann swerved across two or three lanes of traffic in front of five to eight other vehicles and stopped his car in the intersection to yell at Officer Lopez. Other vehicles were trying to get past Spann's vehicle. Spann told Officer Lopez that he was turning southbound, and Officer Lopez told Spann three times to move along. Officer Lopez finally had to scream at Spann to move along, and Spann was continuing to hang out of his car and yell at Officer Lopez. As Spann turned southbound onto Meridian Street, he continued to hang out of the car window and look and scream at Officer Lopez.

[1] Ind. Code § 35-42-2-4 (2004).

Officer Lopez finished obtaining information regarding the accident and then got into her patrol vehicle, followed Spann to Delaware Street, and then initiated a traffic stop. Spann made aggressive movements inside his vehicle and continued to scream, and Officer Lopez called for another officer. After exiting his car, Spann screamed, balled up his fist, paced back and forth, flailed his arms, and at some point told the officers he was a paranoid schizophrenic and had not taken his medication that day.

On July 25, 2010, the State charged Spann with Count I, obstructing traffic as a class A misdemeanor;[2] and Count II, disorderly conduct as a class B misdemeanor. On August 30, 2010, a bench trial was held and Spann was found guilty under Count I and not guilty under Count II. The court sentenced Spann to six days in the Marion County Jail.

The issue is whether the evidence is sufficient to sustain Spann's conviction. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court's ruling. Id. We affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. Id.

[2] Count I alleged that Spann "did recklessly, knowingly or intentionally obstruct (vehicular[]) traffic, by the use of a motor vehicle, specifically stopping to yell at the officer that was directing traffic." Appellant's Appendix at 13.

The offense of obstructing traffic is governed by Ind. Code § 35-42-2-4, which provides in part that "[a] person who recklessly, knowingly, or intentionally obstructs vehicular or pedestrian traffic commits obstruction of traffic" and that the offense is "a Class A misdemeanor if the offense includes the use of a motor vehicle." Thus, to convict Spann of obstructing traffic as a class A misdemeanor, the State needed to prove that Spann recklessly, knowingly or intentionally obstructed vehicular traffic and that the offense included the use of a motor vehicle.

A person engages in conduct "intentionally" if, when he engages in the conduct, it is his conscious objective to do so. Ind. Code § 35-41-2-2(a). A person engages in conduct "knowingly" if, when he engages in the conduct, he is aware of a high probability that he is doing so. Ind. Code § 35-41-2-2(b). A person engages in conduct "recklessly" if he engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct. Ind. Code § 35-41-2-2(c).

Spann argues that the evidence is insufficient to sustain his conviction for obstruction of traffic and that "[i]f one were to read this record and attribute truthful testimony to both [Spann] and Officer Lopez, one could very well conclude that each of these actors believed themselves to be acting properly." Appellant's Brief at 6. Spann argues that "[a]lthough Officer Lopez stated that [Spann] impeded the flow of traffic" and "stopped his car," there is "no testimony that other vehicles either stopped or were unable to move forward." Id. (internal quotation marks omitted). Spann argues: "Did he obstruct traffic? How could he when it was already obstructed by the accident." Id. at 6-

7. Spann further argues that "[n]owhere in the record is there any evidence that other vehicles were impeded despite the statement of the officer," that the "specifics of the Information are that traffic was obstructed because [Spann] 'stopped to yell at the officer directing traffic," that there "was no testimony to support this allegation," and that "[t]here was no testimony that [he] swerved or drove in such a way as to create a danger to someone." Id. at 7. Spann also argues that "[a]lthough most would agree that getting into a yelling contest with a law enforcement officer is not good citizenship, here the exchange between the two is really a side bar" and that "[t]here was a complete failure of proof in the case and the conviction should be reversed for lack of sufficient evidence." Id.

The State argues that "[t]he bulk of Spann's challenge to the sufficiency of the evidence is an examination of the conflicting evidence presented by him during the trial." Appellee's Brief at 4. The State argues that "[t]he normal flow of traffic was unquestionably disrupted by the accident," that "Spann's act of crossing in front of five to eight vehicles and then stopping his vehicle created an obstruction to the redirected traffic flow," and that "[t]he other cars were trying to move past him but were unable to do so while he was hanging out of the car yelling at Officer Lopez." Id. at 5.

To the extent Spann points to conflicting testimony at the bench trial, we note that we consider conflicting evidence most favorably to the trial court's ruling and that we may not assess witness credibility or reweigh the evidence. See Drane, 867 N.E.2d at 146. According to the testimony of Officer Lopez, after she directed Spann to turn southbound onto Meridian Street, Spann swerved across two or three lanes of traffic in

front of five to eight other vehicles, "impeded the flow of traffic," see Transcript at 12, and stopped his car in the intersection to yell at Officer Lopez. Officer Lopez also testified that other vehicles were trying to move past Spann, that she instructed Spann to move along a total of four times, and that when Spann did begin to turn onto Meridian Street he continued to hang out of the car window and look and scream at her.

Based upon our review of the evidence as set forth in the record and above, we conclude that sufficient evidence exists from which the court could find Spann guilty beyond a reasonable doubt of obstructing traffic as a class A misdemeanor.

For the foregoing reasons, we affirm Spann's conviction.

Affirmed.

FRIEDLANDER, J., and BAILEY, J., concur.