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IN THE
COURT OF APPEALS OF INDIANA

RODNEY GRIFFIN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-1010-CR-1108
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Barbara L. Cook Crawford, Judge
The Honorable Melissa H. Kramer, Commissioner
Cause No. 49G21-1004-CM-31152

May 12, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Rodney Griffin appeals his conviction for invasion of privacy as a class A misdemeanor.[1] Griffin raises one issue, which we revise and restate as whether the evidence is sufficient to sustain his conviction. We reverse.

The relevant facts follow. In June 2009, the trial court issued an Ex Parte Order for Protection which prohibited Griffin from contacting or directly or indirectly communicating with Erika Crawford. Later that month, Indianapolis Metropolitan Police Officer Clayton Goad was dispatched regarding a disturbance between Griffin and Crawford. Officer Goad ran Griffin and Crawford's information and learned that there was an order protecting Crawford from Griffin. After checking with his control operator and learning that the protective order had not been served, Officer Goad told Griffin about the order.

At some point, Karen Brogan, a deputy public defender, represented Griffin in a criminal case involving Crawford which was dismissed in March 2010.[2] After the case was dismissed, Brogan spoke with Griffin and informed him that a no contact order related to the dismissed criminal case was vacated and "it was all over with."[3] Transcript at 35.

On April 16, 2010, Crawford went to her residence in Indianapolis and found Griffin and her children at the residence. Crawford asked Griffin to leave, and Griffin

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[1] Ind. Code § 35-46-1-15.1 (Supp. 2008) (subsequently amended by Pub. L. No. 94-2010, § 12 (eff. July 1, 2010)).

[2] The record does not reveal the details of this criminal case.

[3] The record does not contain the no contact order issued in connection with the criminal case.

informed her that he was told that "he could be there by the Courts" and did not leave. Id. at 19. Crawford then called the Marion County Police to "inquire if [she] still had a restraining order." Id. The dispatcher informed Crawford that "the only way for her to know if there was a restraining order was to send police officers to the house." Id. at 20. Indianapolis Police Officer William Norlock arrived at Crawford's residence, ran a check on Griffin, and learned that Griffin had a protective order against him. Officer Norlock asked Griffin if he was aware of the protective order, and Griffin stated that he was aware but thought that it had been lifted.

On April 17, 2010, the State charged Griffin with invasion of privacy as a class A misdemeanor. At the bench trial, Griffin testified that Brogan had told him that all charges had been dropped and that he "figured everything had been dropped." Id. at 32. Griffin also testified that he "thought it was okay for [him] to go home" and believed that the protective order was no longer in place. Id. The following exchange then occurred:

> THE COURT: Okay. Did you understand, sir, that there were actually two different orders? It sounded like you had a criminal case that had a no contact order and there was a protective order.
>
> [Griffin]: I understood when I got locked up over it when they told me.
>
> THE COURT: But at the time?
>
> [Griffin]: No, I didn't.

Id.

The following exchange occurred during direct examination of Brogan regarding her discussion with Griffin after the criminal case was dismissed:

Q . . . What did you tell him regarding the case?

A Well, in the case that we had the no contact order with his wife was vacated and I told him that.

Q Okay. So did you also tell him that everything was dismissed?

A I did not tell him to check on any other court. I probably should have, because sometimes these things come about by a civil no contact order and I wish I had told him that. I mean, I didn't check on it. I just figured it was all over with and I think he probably did too since I said it was all over with.

Id. at 35.

After closing arguments, the court stated:

> [I]t's unfortunate that you didn't understand that there is a civil protective order and then when you were arrested on a criminal case that you had criminal charges and a criminal order. So what Miss Brogan referred to being dismissed is charges being dismissed and that no contact order being vacated.
>
> That's a no contact order, this is a protective order, two separate cases. So although I understand that was your understanding, that wasn't the case and the responsibility does lie with you to make sure that that protective order is or is not in place. . . . So, unfortunately, the burden is on you to make sure you understand what orders you have.

Id. at 40. The court found Griffin guilty as charged and sentenced him to time served.

The sole issue is whether the evidence is sufficient to sustain Griffin's conviction for invasion of privacy as a class A misdemeanor. 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.

The offense of invasion of privacy is governed by Ind. Code § 35-46-1-15.1, which provides: "A person who knowingly or intentionally violates . . . a protective order to prevent domestic or family violence issued under IC 34-26-5 . . . commits invasion of privacy, a Class A misdemeanor."[4] "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).

Based upon the court's comments following closing argument, the court believed that Griffin did not understand that a protective order was still in effect. Specifically, the court stated: "[I]t's unfortunate that you didn't understand that there is a civil protective order and then when you were arrested on a criminal case that you had criminal charges and a criminal order." Transcript at 40. The court also stated: "That's a no contact order,

[4] Ind. Code § 35-46-1-15.1 also addresses no contact orders. Specifically, Ind. Code § 35-46-1-15.1 provides that "[a] person who knowingly or intentionally violates . . . (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6; . . . [or] (12) an order issued under IC 35-33-8-3.2; . . . commits invasion of privacy, a Class A misdemeanor." The State charged Griffin with violating "[a] protective order issued to prevent domestic or family violence issued under IC 34-26-5." Appellant's Appendix at 14.

this is a protective order, two separate cases. So although I understand that was your understanding, that wasn't the case . . . ." Id.

The trial court observed the witnesses, weighed the evidence, and found that Griffin did not understand that the protective order was still in effect. We will not assess witness credibility or reweigh the evidence. See Drane, 867 N.E.2d at 146. Accordingly, we can only conclude that the State failed to prove beyond a reasonable doubt that Griffin knowingly or intentionally violated the protective order. See Kribs v. State, 917 N.E.2d 1249, 1251 (Ind. Ct. App. 2009) (reversing the defendant's conviction in light of the trial court's comments that "I think that it may very well be in this case where [the defendant] did not understand, or he didn't remember" and "I don't think there was malicious intent"); see also Tharp v. State, 942 N.E.2d 814, 818 (Ind. 2011) (holding that the mixed messages from the person protected by a protective order was insufficient to sustain a conviction for invasion of privacy).

For the foregoing reasons, we reverse Griffin's conviction for invasion of privacy as a class A misdemeanor.

Reversed.

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