



Justin Jurgenson appeals his conviction of Class B felony burglary.<sup>1</sup> He alleges the State produced insufficient evidence to support his conviction. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On March 27, 2008, Daniel Wurtsbaugh returned home at 6:00 p.m. and found someone had broken into his house. Tire tracks indicated a vehicle had pulled up to the back door. The intruder or intruders had kicked open the door to his back porch and then broken the glass to unlock the door from the porch to the kitchen. A PlayStation, PlayStation games, DVDs, CDs, a poker set, and a Bluetooth headset had been stolen from his house. To unhook the PlayStation, someone had pulled his stereo receiver out from the entertainment center. A jar of coins had been moved from the living room to the kitchen counter.

Officer Brad Rohrscheib responded to Wurtsbaugh's report of the burglary. He took fingerprints from the stereo receiver, the jar of coins, and the doors. Officer Rohrscheib sent the fingerprints to the lab, where two experts determined Jurgenson's right index finger print was on the change jar and Jurgenson's right thumb print was on the stereo receiver. Wurtsbaugh did not know Jurgenson and had not given him permission to be in his home.

The State charged Jurgenson with burglary. A jury found him guilty, and the court sentenced him to ten years in the Department of Correction.

---

<sup>1</sup> Ind. Code § 35-43-2-1.

## DISCUSSION AND DECISION

Jurgenson challenges the sufficiency of the evidence to support his conviction of burglary.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences *supporting* the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

*Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations, citations, and footnote omitted) (emphasis in original).

Jurgenson alleges the State did not prove he was the person who entered Wurtsbaugh's house and stole his property. To support his allegation, Jurgenson cites his testimony that he knew Wurtsbaugh and had been in Wurtsbaugh's home to sell him drugs. He also notes he does not have a driver's license or a vehicle he could have driven to Wurtsbaugh's back door.

We may not consider that evidence because it does not support the verdict. *See id.* at 146. Neither may we accept Jurgenson's invitation to find the jury should have believed him and not Wurtsbaugh.

At trial, Wurtsbaugh was asked whether he had seen or met Jurgenson before the trial:

- Q. Did you know an individual named Justin Jurgenson?  
A. No.  
Q. Did the officer who talked to you give you any descriptions of the individual.  
A. Yes. He told me he had a tattoo under his eye.  
Q. And did that sound like anyone that you had known as acquaintance?  
A. No.  
Q. Daniel, I'm going to direct your attention to the person in the courtroom seated to the right of [defense counsel]. Can you see him well from where you're seated?  
A. Yes.  
Q. And you're having the opportunity to look at him?  
A. Yes.  
Q. Do you know who he is, and have you seen him before?  
A. Not that I can recall. I don't recognize him.  
Q. Daniel, for the record, did the individual in the courtroom here today, to the right of [defense counsel], have your permission to be inside your residence?  
A. No, he did not.  
\* \* \* \* \*  
Q. Okay. Now did you have friends over sometimes, who brought acquaintances that maybe you didn't know very well?  
A. Not very often.  
Q. Are you confident then that the person here to my right was never in your home touching your stereo or your change jar?  
A. Yes.  
\* \* \* \* \*  
Q. Mr. Wurtsbaugh, you testified previously that you [have] never seen this individual?  
A. Yes.  
Q. Have you ever purchased drugs from this individual?  
A. No, I have not.  
\* \* \* \* \*  
Q. And you testified that you have [sic] didn't know Justin Jurgenson?  
A. Yes.  
Q. Did you [b]uy drugs from Justin Jurgenson?  
A. No, I did not.  
Q. Do you remember getting drugs from any persons with tattoos on their faces[?]  
A. No.

(Tr. at 117-18, 125, 207-08, 209-10.) That testimony supports an inference Jurgenson's

fingerprints were placed on the stereo receiver and change jar during the burglary.

Therefore, the evidence is sufficient to support his conviction.

Affirmed.

BAKER, C.J., and BARNES, J., concur.