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ATTORNEY FOR APPELLANT:

**CARA SCHAEFER WIENEKE**
Special Assistant to the State
Public Defender
Wieneke Law Office, LLC
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**GREGORY F. ZOELLER**
Attorney General of Indiana

**GEORGE P. SHERMAN**
Deputy Attorney General
Indianapolis, Indiana

# IN THE
# COURT OF APPEALS OF INDIANA

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|---|---|---|
| DEBORAH P. KEEVER, | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 57A03-1010-CR-525 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

APPEAL FROM THE NOBLE SUPERIOR COURT
The Honorable Michael J. Kramer, Judge
Cause No. 57D02-1005-CM-424

**May 17, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

## Case Summary

Deborah P. Keever ("Keever") appeals from her conviction for False informing, as a Class A misdemeanor.[1] She challenges only the sufficiency of the evidence to support her conviction.

We affirm.

## Facts and Procedural History

On April 14, 2010, at around 8:50 p.m., Keever's boyfriend, Mark Wilcoxson ("Wilcoxson") dropped Keever off at the Kendallville Wal-Mart so that she could have a prescription filled. Also at the store that day was Angel Dominguez ("Dominguez"), who had formerly been Keever's and Wilcoxson's landlord. Keever and Wilcoxson had some difficulties with Dominguez in the past, as evidenced by several prior incidents for which Keever or Wilcoxson had blamed Dominguez.

As she proceeded to the Wal-Mart pharmacy, Keever passed by Dominguez. Later that evening, Keever provided a statement to Officer Tyler James Bennett ("Officer Bennett") indicating that Dominguez had grabbed her left breast and made a threatening gesture or facial expression toward her at the pharmacy window. Wilcoxson wrote out the statement because Keever was unable to write due to an injury unrelated to the case now before this court.

Officer Bennett reviewed security video from the Kendallville Wal-Mart the following day. The video revealed that Keever and Dominguez passed one another at some distance

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[1] See Ind. Code § 35-44-2-2(d).

from the pharmacy window; the point at which they passed was blocked from the camera's view, and there was no additional on-camera interaction between the two at the pharmacy window.

On May 24, 2010, the State charged Keever with False informing as a Class A misdemeanor. On September 17, 2010, a bench trial was held, at the conclusion of which the trial court found Keever guilty, entered judgment against her, sentenced her to sixty days imprisonment, and imposed a fine of $100.00.

Keever now appeals.

**Discussion and Decision**

Keever challenges the sufficiency of the evidence leading to her conviction for false informing as a Class A misdemeanor. Specifically, Keever challenges the sufficiency of the evidence as to the falsity of her statement to Officer Bennett, as to her knowing or intentional giving of a false statement, and as to her statement substantially hindering a law enforcement process.

Our standard of review on a claim of insufficient evidence after a bench trial is well settled.

> This court will not reweigh the evidence or assess the credibility of witnesses. Cox v. State, 774 N.E.2d 1025, 1028 (Ind. Ct. App. 2002). Only the evidence most favorable to the judgment, together with all reasonable inferences that can be drawn therefrom will be considered. Id. If a reasonable trier of fact could have found the defendant guilty based on the probative evidence and reasonable inferences drawn therefrom, then a conviction will be affirmed. Id. at 1028–29.

Sargent v. State, 875 N.E.2d 762, 767 (Ind. Ct. App. 2007).

To convict Keever of false informing as a Class A misdemeanor, the State was required to prove beyond a reasonable doubt that Keever gave a false report of the commission of a crime, namely, sexual battery, knowing that report to be false, with the result that the false report substantially hindered a law enforcement process. I.C. § 35-44-2-2(d)(1); App. 5. Substantially hindering a law enforcement process elevates the offense from a Class B misdemeanor to a Class A misdemeanor.[2] Whether a defendant knows a matter to be false requires that a defendant "is aware of a high probability" that the matter is false. I.C. § 35-41-2-2(b).

Keever's statement, which she related to Wilcoxson, who wrote the statement which she subsequently adopted, reads:

> Deb was at Wal-Mart in Kendallville at 8:50 p.m. on Wednesday April 3, 2010 [sic]. She was [sic] the pharmacy pick-up window on a motorize [sic] cart. She was putting a prescription on the counter when Angel Dominguez rubbed his hand on her left breast. Deb looked at him and he smiled at her to intimidate her. He then picked up a prescription. Deb was terrified he was going to come back and try again. She feels very violated.
>
> Angel Dominguez has stalked her and rubbed against her on several occasions.

(State's Ex. 1.)[3]

Keever's statement thus clearly states that the events she reported to Officer Bennett

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[2] We do not agree with the State's argument that a false report requiring <u>any</u> amount of investigation to determine its falsity is enough, without more, to elevate the offense of False Reporting to a Class A misdemeanor. As an element of the offense, the State must prove beyond a reasonable doubt that a substantial interference with law enforcement processes has occurred as a result of the false report.

[3] That Wilcoxson wrote the statement is of no event to our analysis, as Officer Bennett's testimony indicates that Keever related the statement to Wilcoxson at the police station. Keever did not directly challenge the question of her adoption of the statement at trial, and does not directly raise this issue for our review.

occurred at the Wal-Mart pharmacy window. Officer Bennett's testimony and review of the Wal-Mart security videos before the trial court reveals that the only opportunity for contact between Keever and Dominguez occurred out of the view of the security cameras, away from the pharmacy window. Keever's testimony at trial reflected a different version of events that was more consistent with the sequence of events as seen on the video. She testified at trial that the alleged battery occurred in the period when she and Dominguez were out of the cameras' view, rather than at the pharmacy window, and claimed that her agitation led to an incorrect report.

Given the differences among Keever's statement to Officer Bennett, the security video and Officer Bennett's testimony regarding the video, and Keever's testimony diverging from her original statement, the trial court stated that "I guess I believe that once changes have been made to try to fit the story to, to fit to the video at this point so I'm going to find the defendant guilty of false informing as a class A misdemeanor." Tr. 54. We are not at liberty to reweigh evidence or reassess the credibility of witnesses. We thus conclude that there was sufficient evidence for the trial court to conclude that Keever's report was false. For the same reasons, we conclude that there was sufficient evidence for the trial court to conclude that Keever knew her report to be false. We therefore affirm the judgment as to the elements of the offense of false reporting.

We also affirm the trial court's decision to enter judgment against Keever for a Class A misdemeanor as charged. The State produced evidence that Officer Bennett expended between five and seven hours over two days investigating Keever's sexual battery claim.

This included time spent obtaining and viewing several store security videos from the Wal-Mart. Given this evidence, the trial court could reasonably infer that Officer Bennett had been drawn away from numerous other duties, thus resulting in a substantial interference with the law enforcement process.

Affirmed.

FRIEDLANDER, J., and BROWN, J., concur.