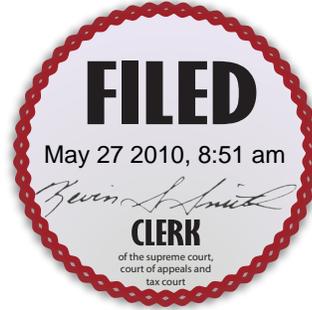


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

JOHN PINNOW
Greenwood, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

NICOLE DONGIEUX WIGGINS
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

WALTER STARKS,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 49A04-0911-CR-633

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Mark Stoner, Judge
Cause No. 49G06-0811-FC-256522 and
49G06-0805-FD-113434

May 27, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Walter Starks appeals his conviction for Class C felony attempted battery. We affirm.

Issue

Starks raises one issue, which we restate as whether there was sufficient evidence to support his conviction for Class C felony attempted battery.

Facts

During the early morning hours of November 10, 2008, Officers Courtney Harris and Brian Thorla of the Indianapolis Metropolitan Police Department initiated a traffic stop of a maroon Oldsmobile driven by Starks. Starks did not obey the police officers' instructions to stop, and a chase ensued. At one point, Starks drove his car into someone's front yard and stopped. The police officers got out of the patrol car and approached Starks's car. Starks's car doors were locked, and Starks and his passenger declined the officers' request to open the doors. Officer Thorla used his baton to smash the passenger side window of Starks's car. Starks then put his car into reverse and backed into the patrol car, hitting Officer Thorla in the process. Starks reversed again, and then he "revved his engine . . . and drove his vehicle straight towards Officer Thorla." Tr. p. 56. Officer Thorla fired three shots at Starks's car. Starks fled the scene, and was apprehended later that morning.

On November 14, 2008, the State charged Starks with Class C felony attempted battery, two counts of Class D felony resisting law enforcement, Class D felony criminal recklessness, and Class C felony possession of cocaine. The State eventually added an additional charge of Class A felony possession of cocaine and alleged that Starks was an habitual offender. After a trial, a jury found Starks guilty of Class C felony attempted battery, two counts of Class D felony resisting law enforcement, Class D felony criminal recklessness, and Class C felony possession of cocaine. Starks was also found to be an habitual offender. Starks now only appeals his Class C felony attempted battery conviction.

Analysis

Starks argues there is insufficient evidence to support his attempted battery conviction. In reviewing a claim of insufficient evidence, we do not reweigh the evidence, nor do we reevaluate the credibility of witnesses. Rohr v. State, 866 N.E.2d 242, 248 (Ind. 2007). “The Court views the evidence most favorable to the verdict and the reasonable inferences therefrom and will affirm the conviction if there is substantial evidence of probative value from which a reasonable jury could find the defendant guilty beyond a reasonable doubt.” Id.

A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits Class B misdemeanor battery. Ind. Code § 35-42-2-1(a). The offense is a Class C felony if it is committed by means of a deadly weapon. I.C. § 35-42-2-1(a)(3). “A person attempts to commit a crime when, acting with the culpability required for commission of the crime, he engages in conduct that constitutes a

substantial step toward commission of the crime.” I.C. § 35-41-5-1(a). Starks engaged in conduct “intentionally,” if when he engaged in the conduct, it was his conscious objective to do so. See I.C. § 35-41-2-2(a). Starks engaged in conduct “knowingly,” if when he engaged in the conduct, he was aware of the high probability that he was doing so. See I.C. § 35-41-2-2(b). An automobile can be a deadly weapon if used or intended to be used in a manner readily capable of causing serious bodily harm even though an automobile is not particularly defined as a deadly weapon in our criminal code. Johnson v. State, 455 N.E.2d 932, 936 (Ind. 1983); see also I.C. § 35-41-1-8 (defining deadly weapon).

Starks argues that he acted recklessly when he evaded police and that his intent was to flee to avoid getting caught with illegal contraband. Intent involves a person’s state of mind, and the fact finder can infer intent from surrounding circumstances. Davis v. State, 863 N.E.2d 1218, 1220 (Ind. Ct. App. 2007), trans. denied. Here the jury could infer that Starks knowingly or intentionally tried to hit Officer Thorla with his car when Starks revved his engine and turned “his steering wheel sharply to the right and drove his vehicle straight towards Officer Thorla.” Tr. p. 54. Officer Thorla testified that Starks then “hit the gas and came towards me again.” Id. at 152. This evidence is sufficient to show that Starks was not simply acting recklessly when he drove toward Officer Thorla. There is sufficient evidence to support Starks’s conviction.

Conclusion

There is sufficient evidence to support Starks’s conviction for Class C felony attempted battery. We affirm.

Affirmed.

BAILEY, J., and MAY, J., concur.