

public intoxication, a Class B misdemeanor.¹ We affirm.

FACTS AND PROCEDURAL HISTORY

Just after midnight on May 10, 2008, Officer Roger Gammon of the Indianapolis Metropolitan Police Department parked his police cruiser three to four houses east of the home where Owens lived with his mother. Owens was a suspect in an arson that had occurred a few hours beforehand. Officer Gammon knocked on the back door of Owens' home and received no response. As he came back around to the front of the home, Officer Gammon saw Owens walk from his front yard out into the street toward the police car. When Officer Gammon reached Owens, he noticed Owens' speech was slurred, his eyes were bloodshot and glassy, his breath smelled of alcohol, and he was staggering. Officer Gammon believed Owens was intoxicated and arrested him.

The State charged Owens with public intoxication. The trial court found him guilty and imposed a sixty-day sentence.

DISCUSSION AND DECISION

Owens alleges the evidence is insufficient to support his conviction.

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

¹ Ind. Code § 7.1-5-1-3 provides: "It is a Class B misdemeanor for a person to be in a public place or a place of public resort in a state of intoxication caused by the person's use of alcohol or a controlled substance."

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).

Owens first asserts the State did not prove he was in a public place. Officer Gammon testified Owens was in the street, which is a public place. *See State v. Moriarty*, 74 Ind. 103, 103, 1881 WL 6411, *1 (1881) (“*Prima facie* a public street is a public place.”) (emphasis in original). Owens notes his testimony about where he was standing conflicted with Officer Gammon’s testimony. However, we may not consider Owens’ testimony, as it is not favorable to the judgment.

Next, Owens asserts the evidence was insufficient to demonstrate he was intoxicated because “[g]lassy eyes, slurred speech and an odor of alcohol alone do not prove intoxication.” (Appellant’s Br. at 10.) We disagree. “With respect to the sufficiency of the evidence upon the element of intoxication, it is established that a non-expert witness may offer an opinion upon intoxication, and a conviction may be sustained upon the sole testimony of the arresting officer.” *Wright v. State*, 772 N.E.2d 449, 460 (Ind. Ct. App. 2002). In addition to the evidence Owens acknowledges, Officer Gammon testified Owens had bloodshot eyes and was staggering. There was ample evidence Owens was intoxicated. *See id.* (evidence sufficient where officer testified defendant was verbally abusive, had red eyes, smelled strongly of alcohol and was unsteady).

Affirmed.

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