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IN THE
COURT OF APPEALS OF INDIANA

KYLE BRINKLEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1010-CR-664
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Barbara Cook Crawford, Judge
Cause No. 49G21-1009-CM-72361

May 31, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-defendant Kyle Brinkley ("Brinkley") appeals his conviction for Invasion of Privacy as a Class A misdemeanor[1] raising the single issue of whether sufficient evidence supports his conviction. We affirm.

Facts and Procedural History

On December 12, 2008, Precious Benning ("Benning"), the mother of Brinkley's two children, obtained an ex parte protection order against Brinkley. The order restrained Brinkley from further acts of abuse or threats of abuse against Benning, and restrained him from having any contact with Benning. The order was set to expire on December 12, 2009. In the same order, the court scheduled a hearing on the matter for January 5, 2009.

On January 5, 2009, the court held an evidentiary hearing on the order and Brinkley appeared in person. Afterwards, the court issued a protective order that restrained Brinkley from further acts of abuse or threats of abuse against Benning, and restrained Brinkley from having any contact with Benning. The order was set to expire on January 5, 2011[2] and Brinkley agreed to its issuance.

On the evening of September 16, 2010, Indianapolis Metropolitan Police Department Office Ivan Ivanov ("Officer Ivanov") was dispatched to a Target store to investigate a disturbance. Upon arrival, Officer Ivanov encountered five individuals, one of whom was Brinkley and another of whom was Benning. Brinkley and Benning had travelled to and

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[1] Ind. Code § 35-46-1-15.1.
[2] The protective order was dismissed on September 17, 2010.

been together at Target before another individual attempted to fight Brinkley. As part of his investigation, Officer Ivanov ran a check of Brinkley's identification information through his dispatch and discovered Benning's protective order against Brinkley.

That same day, Brinkley was charged with Invasion of Privacy as a Class A misdemeanor. A bench trial was held on October 6, 2010, and the trial judge found Brinkley guilty as charged. Brinkley was sentenced to one year in prison with forty-two days executed (his time already served), and three hundred twenty-three days suspended. He now appeals.

Discussion and Decision

Standard of Review

When reviewing a challenge to the sufficiency of the evidence, "[w]e will affirm 'if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.'" Tharp v. State, 942 N.E.2d 814, 816 (Ind. 2011) (quoting Tobar v. State, 740 N.E.2d 109, 111-12 (Ind. 2000)). We do not reweigh the evidence or judge credibility of witnesses, and we respect the fact-finder's "exclusive province to weigh conflicting evidence." Id. (quoting Alkhalidi v. State, 753 N.E.2d 625, 627 (Ind. 2001)). It is the trial court's role to determine whether the evidence sufficiently proves each element of an offense, and we consider conflicting evidence most favorably to the trial court's ruling. Wright v. State, 828 N.E.2d 904, 906 (Ind. 2005) (citing Davis v. State, 813 N.E.2d 1176, 1178 (Ind. 2004)).

Invasion of Privacy

Brinkley asserts that the State did not produce sufficient evidence to prove that he

knowingly or intentionally violated the protective order. Specifically, he maintains that because he thought that the protective order had expired, he did not knowingly violate its terms. We cannot agree.

To convict Brinkley as charged, the State was required to prove beyond a reasonable doubt that he "knowingly or intentionally" violated a protective order issued under I.C. § 34-26-5. I.C. § 35-46-1-15.1(1); App. 13. A person intentionally engages in conduct if it is his conscious objective to do so. I.C. § 35-41-2-2(a). A person knowingly engages in conduct if, when he engages in the conduct, he is aware of a high probability that he is doing so. I.C. § 35-41-2-2(b). A court may issue only one protective order for each respondent, and if a court issues a protective order subsequent to its first, then the latter supersedes the former. I.C. 34-26-5-2(c); Norwood v. State, 938 N.E.2d 1209, 1211 (Ind. Ct. App. 2010).

To demonstrate Brinkley's knowledge of the protective order,[3] the State introduced a copy of the protective order into evidence. The order states that it was issued on January 5, 2009, under the authority of I.C. § 34-26-5, and expires on January 5, 2011. The order also states that Brinkley was present at the hearing and agreed to the issuance of the order. Additionally, the State introduced the Chronological Case Summary ("CCS") from the protective order proceedings. The CCS indicates that a protective order hearing was held on January 5, 2009, that Brinkley attended the hearing, and that the resulting order was issued by agreement. Thus, the evidence and reasonable inferences drawn therefrom were sufficient

[3] Brinkley does not challenge the sufficiency of the evidence supporting the State's charge that he was in violation of the order's terms, and, regardless, Benning testified that she and Brinkley travelled to and were together at Target, which is a violation of the protective order's provision for no contact.

for the trial judge to conclude that Brinkley had knowledge of the protective order and its expiration date. Brinkley's arguments to the contrary amount to an invitation to judge his credibility and reweigh the evidence, which we will not do. Tharp, 942 N.E.2d at 816.

Affirmed.

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