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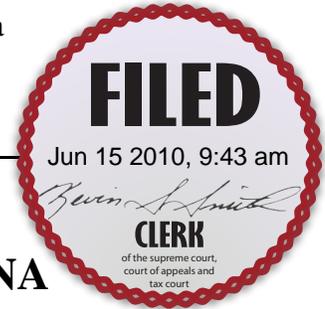
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**IN THE
COURT OF APPEALS OF INDIANA**

PAUL MORRIS,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 42A04-0912-CR-724

APPEAL FROM THE KNOX SUPERIOR COURT 1
The Honorable W. Timothy Crowley, Judge
Cause No. 42D01-0706-FC-50

June 15, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Paul Morris (Morris), appeals his conviction for Count I, burglary, a Class C felony, Ind. Code § 35-43-2-1 and Count II, resisting law enforcement, a Class A misdemeanor, I.C. § 35-44-3-3.

We affirm.

ISSUE

Morris raises one issue on appeal, which we restate as follows: Whether the State presented sufficient evidence to prove beyond a reasonable doubt that he had committed a burglary.

FACTS AND PROCEDURAL HISTORY

At approximately 11:46 p.m. on May 15, 2007, the motion sensor alarm in the business office of the Royster-Clark Co-op (Co-op), located in Oaktown, Knox County, Indiana, was triggered. Knox County Sheriff's Deputies James Wehrman (Deputy Wehrman) and Eric Coonrod (Deputy Coonrod) were dispatched to investigate what had set-off the alarm. After they arrived at the Co-op, Deputy Coonrod checked the main entrance to the office building and found the door unlocked. Deputy Wehrman pointed his flashlight through the window of the office and noticed Morris in the corner of the office, getting ready to enter through another doorway to get to the rear of the office building. Both Deputies entered the office area of the Co-op, identified themselves as deputies with the Sheriff's Department, and ordered Morris to show his hands. However, Morris, who by now was in the rear of the building, fled by breaking a window.

Both Deputies exited the building and Deputy Wehrman noticed Morris running across the roadway into a field north of the Co-op. He yelled at Morris to stop and warned him that he would release his canine partner. Morris continued to run. Deputy Coonrod started a foot chase while Deputy Wehrman returned to his car to retrieve his canine partner. When Deputy Wehrman caught up with Morris, he had been apprehended by Deputy Coonrod and was lying on the ground at gunpoint. Morris was barefooted and his sandals were later found near the broken window at the back of the building.

The Sheriff's Department contacted Co-op manager John Wheatley (Wheatley) who came to the scene to assess the damage done to the offices. Although nothing appeared to be missing, the office "was a wreck." (Transcript p. 260). The offices had been ransacked and it "looked like someone was looking for something in particular." (Tr. p. 279). Morris had opened and looked through drawers and cabinets in every office, moved computers, and thrown papers and other objects across the floor. He had ripped phones, a radio, and the alarm system's control panel off the wall. Morris broke the window in the interior door leading to the manager's office and his blood was found on numerous surfaces throughout the offices. Even though the Co-op stored farm chemicals and anhydrous ammonia, Morris did not appear to have tampered with these.

On June 27, 2007, the State filed an Information charging Morris with Count I, burglary, a Class C felony, I.C. § 35-43-2-1 and Count II, resisting law enforcement, a Class A misdemeanor, I.C. § 35-44-3-3. On September 30 and October 1, 2009, a jury trial was held. At the conclusion of the evidence, the jury found Morris guilty as charged. On

November 3, 2009, following a sentencing hearing, the trial court sentenced Morris to eight years executed for burglary, with two years suspended to work release and a concurrent one-year term for resisting law enforcement.

Morris now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Morris asserts that the State failed to present sufficient evidence to sustain his conviction for burglary.¹ In reviewing a sufficiency of the evidence claim, this court does not reweigh the evidence or judge the credibility of the witnesses. *Perez v. State*, 872 N.E.2d 208, 212-13 (Ind. Ct. App. 2007), *trans. denied*. We will consider only the evidence most favorable to the verdict and the reasonable inferences to be drawn therefrom and will affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. *Id.* at 213. Reversal is appropriate only when reasonable persons would not be able to form inferences as to each material element of the offense. *Id.*

In order to convict Morris of burglary as a Class C felony, the State was required to prove beyond a reasonable doubt that Morris broke and entered the building of another person with the intent to commit a felony in it. *See* I.C. § 35-43-2-1. The State alleged that the specific felony Morris intended to commit was theft. *See* I.C. § 35-43-4-2. Although Morris concedes that he broke into and entered the Co-op building, he contends that the State failed to prove that he entered the building with the specific intent to commit a theft as he did

¹ Morris does not appeal the sufficiency of the evidence for his conviction for resisting law enforcement.

not take any property from the building or single out any property by moving it by the building's exit door.

In support of his argument, Morris relies on *Freshwater v. State*, 853 N.E.2d 941 (Ind. 2006). There, Freshwater broke into a car wash by prying open a back door with a screwdriver, and he fled when the alarm sounded. *Id.* at 942. When authorities found Freshwater walking near the building, no car wash property was found on him and the owner of the car wash reported that nothing was missing or disturbed in the office. *Id.* The *Freshwater* court determined that “in order to sustain a burglary charge, the State must prove a specific fact that provides a solid basis to support a reasonable inference that the defendant had the specific intent to commit a felony.” *Id.* at 944. The court concluded that no such fact had been proven against Freshwater: there was no evidence that he was near or approaching anything valuable in the car wash, and the owner of the car wash testified that “nothing was missing from the building or the cash register and that the office appeared to have been undisturbed.” *Id.* at 944-45. Faced only with evidence that Freshwater broke into the premises, the court concluded that the State had failed its burden in this regard. *Id.* at 945.

However, unlike the mere entry in *Freshwater* where the premises appeared to be undisturbed, Morris ransacked the Co-op. The evidence establishes that drawers and cabinets in all offices had been opened and rifled through, scattering their contents on the floor, computers had been moved while phones, a radio, and the alarm system's control panel were pulled off the wall. The whole scene looked “as if somebody was looking for something in particular.” (Tr. p. 279). The evidence clearly indicates that the Deputies saw Morris in the

building, walking from one room to the next. Morris refused the Deputies' order to exit the building, choosing instead to flee the building. It is of no significance that Morris did not actually take anything from the Co-op; the fact that he did not take anything does not equate to a finding that he did not intend to.

The evidence here clearly extends beyond a mere entry and supports a reasonable inference that Morris intended to commit theft when he entered the Co-op building. As such, we conclude that the State proved specific facts that provide a solid basis to support a reasonable inference that Morris had the specific intent to commit theft when he entered the premises of the Co-op.

CONCLUSION

Based on the foregoing, we conclude that the State presented sufficient evidence to convict Morris of burglary.

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.