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IN THE
COURT OF APPEALS OF INDIANA

JANNA CAYWOOD	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0811-CR-1044
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Rebekah Pierson-Treacy, Judge
The Honorable John S. Alt, Commissioner
Cause No. 49F19-0809-CM-218262

June 18, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Following a bench trial, Appellant-Defendant Janna Caywood was convicted of Public Intoxication as a Class B misdemeanor.[1] Upon appeal, Caywood challenges the sufficiency of the evidence to support her conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

On September 21, 2008, around 3:00 a.m., Indianapolis Metropolitan Police Officer Jerry Durham was summoned to a commotion outside of Ike and Jonesy's bar located at 17 West Jackson Place in Indianapolis. Caywood, a patron of Ike and Jonesy's, approached Officer Durham when he arrived. Officer Durham observed that Caywood smelled of alcohol, had bloodshot eyes and slurred speech, and exhibited unsteady balance. Caywood had consumed several alcoholic beverages that evening and was hysterical during her brief conversation with Officer Durham. Officer Durham asked Caywood to leave the area several times. Caywood ignored Officer Durham's requests.

On September 21, 2008, the State charged Caywood with public intoxication as a Class B misdemeanor. Following an October 27, 2008 bench trial, Caywood was convicted of public intoxication. The trial court sentenced Caywood to 180 days of incarceration with 176 days suspended. This appeal follows.

DISCUSSION AND DECISION

Caywood's sole challenge on appeal is to the sufficiency of the evidence to support her conviction for public intoxication. Our standard of review for sufficiency-of-the-evidence claims is well-settled. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied.* We do not reweigh the evidence or judge the credibility of the

[1] Ind. Code § 7.1-5-1-3 (2008).

witnesses. *Id.* We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. *Id.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998).

To convict Caywood of public intoxication, the State had to prove that Caywood was located in a public place while intoxicated by her use of alcohol or a controlled substance. *See* Ind. Code § 7.1-5-1-3. Caywood contests her conviction by challenging the adequacy of the evidence to demonstrate that she was intoxicated, particularly asserting that Officer Durham's testimony was "wholly uncorroborated." In making such argument, Caywood relies on *Stout v. State*, 612 N.E.2d 1076 (Ind. Ct. App. 1993), which states that "a reviewing court will not impinge upon the fact finder's resolution of credibility issues unless confronted with testimony of inherent probability or coerced, equivocal, wholly uncorroborated testimony of incredible dubiosity." 612 N.E.2d at 1080.

In *Stout*, this court recognized that a reversal is required when there is uncorroborated testimony that is so "incredibly dubious or inherently improbable that it runs counter to human experience." 612 N.E.2d at 1081. Under this standard, Caywood must assert and prove that Officer Durham's testimony was both uncorroborated and incredibly dubious. Regardless of whether Officer Durham's testimony was

uncorroborated, it cannot be said to run counter to human experience. Officer Durham's testimony established that Caywood was present at a bar in the early morning hours. She was uncooperative, unable to communicate, and showed several other signs of intoxication. Such a condition led Officer Durham to conclude that Caywood was intoxicated. Officer Durham's testimony is not counter, but indeed familiar, to human experience. Based on the above facts, Caywood is unable to establish that Officer Durham's testimony is "incredibly dubious." Accordingly, this court will not impinge upon the trial court's credibility finding. *See id*.

As to Caywood's challenge to the evidence establishing that she was intoxicated, we observe that "intoxicated" is defined as "under the influence of: (1) alcohol . . . so that there is an impaired condition of thought and action and the loss of normal control of a person's faculties." *See* Ind. Code § 9-13-2-86 (2008). Intoxication may be established through evidence of consumption of significant amounts of alcohol, impaired attention and reflexes, watery or bloodshot eyes, an odor of alcohol on the breath, unsteady balance, failed sobriety tests and slurred speech. *Mann v. State*, 754 N.E.2d 544, 547 (Ind. Ct. App. 2001), *trans. denied*. Here, Officer Durham testified that Caywood smelled of alcohol, had bloodshot eyes and slurred speech, and that she exhibited unsteady balance. In convicting Caywood, the trial court found this testimony to be credible. We will not reassess the court's credibility determination on that point. This evidence is sufficient to support Caywood's conviction for public intoxication.

The judgment of the trial court is affirmed.

CRONE, J., and BROWN, J., concur.