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.

FILED
Jun 21 2011, 8:33 am
CLERK
of the supreme court, court of appeals and tax court

ATTORNEY FOR APPELLANT:

MARIELENA DUERRING
South Bend, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana
Indianapolis, Indiana

KARL M. SCHARNBERG
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

STEVEN CONNORS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A05-1011-CR-776
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable John M. Marnocha, Judge
Cause No. 71D02-1007-FB-89

JUNE 21, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Steven Connors appeals his conviction for arson, a Class B felony. Ind. Code § 35-43-1-1 (2002). We affirm.

ISSUE

Connors raises one issue, which we restate as: whether the evidence is sufficient to sustain his conviction.

FACTS AND PROCEDURAL HISTORY

In March 2010, Steven Connors bought a home at 804 West Adams Street in Osceola, Indiana, on a land contract. He made two payments on the contract, but by July 9, 2010, he was approximately $2000 in arrears.

Connors and his wife, Teresa, had a turbulent marriage and fought frequently. In the past, Connors had threatened to burn down their residence on several occasions. On July 5, 2010, Teresa moved out of the house and took their children with her. A few days later, Connors went to his sister's home and used her phone to call Teresa. Connors' sister, Ruthine Newton, heard Connors tell Teresa, "I'd burn the house down, before I ever gave it to you." Tr. p. 263. Connors also threatened to burn Teresa's pictures. On the evening of July 8, 2010, Connors told a neighbor that he was behind on his house payments, the electricity had been shut off, and his wife had left him.

Robert Sutton lived next door to Connors. At 8:20 am on July 9, 2010, Sutton looked out of his kitchen window and saw Connors walk by. At 8:45 am, Sutton's daughter left Sutton's home to go to work but came back inside and reported that Connors' house was on fire. Sutton's daughter called the fire department. At 8:48 am,

Osceola Police Chief Phillip Brown was on patrol when he received a report of a fire at 804 West Adams Street. When Brown arrived at the scene, he found Connors' house in flames. The fire caused the siding on one side of Sutton's home to melt and sag.

Ryan Deal, the Chief of the Osceola Fire Department, investigated the fire. He determined that the fire started in the west rear bedroom of the house because that room had the most fire damage. Deal concluded that the fire was not caused by electrical or mechanical sources but was instead incendiary in nature, meaning that the fire had been lit, either intentionally or by accident. Deal requested assistance from the State Fire Marshal's Office.

Detective Jeff Roseboom of the State Fire Marshal's Office came to the scene. Roseboom, like Deal, determined that the fire began in the west rear bedroom. Roseboom further determined that the fire began in the center of the room, away from furniture, and that the electrical wiring and outlets in the room did not cause the fire. Instead, he noted the presence of a charred pile of books and papers in the center of the room and concluded that the fire was intentionally set, using the books and papers as fuel.

The State charged Connors with arson as a Class B felony and with arson as a Class C felony. A jury found Connors guilty as charged. The trial court entered a judgment of conviction as to the Class B felony charge, refrained from entering a judgment of conviction as to the Class C felony charge due to double jeopardy issues, and sentenced Connors accordingly. This appeal followed.

DISCUSSION AND DECISION

Arson is almost always subject to proof solely by circumstantial evidence. *Bald v. State*, 766 N.E.2d 1170, 1174 (Ind. 2002). In reviewing the sufficiency of circumstantial evidence leading to a conviction, we use the same scope of review as when the evidence is direct. *McGowan v. State*, 671 N.E.2d 1210, 1214 (Ind. Ct. App. 1996). We do not reweigh the evidence or assess the credibility of the witnesses. *Treadway v. State*, 924 N.E.2d 621, 639 (Ind. 2010). Rather, we look to the evidence and reasonable inferences drawn therefrom that support the verdict, and we will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *Id*.

In this case, in order to convict Connors of Class B felony arson as charged, the State was obligated to prove beyond a reasonable doubt that (1) Connors (2) knowingly (3) by means of fire (4) damaged (5) property of any person (6) under circumstances that endangered human life. Ind. Code § 35-43-1-1; Appellant's App. p. 107.

Connors does not dispute that he was at his house on the morning the fire occurred. Nevertheless, he contends that there is insufficient evidence that he set the fire. We disagree. Connors had several motives to set the fire, including getting relief from a financial burden and getting revenge on his wife for leaving him. In addition, he had made threats to burn down his home several times, even as recently as several days before the fire. Furthermore, the fire was set intentionally, using books and papers piled in the center of a bedroom as fuel. After the fire, Connors sent a letter to Teresa in which he suggested that he may have accidentally started the fire by dropping a cigarette behind

a dresser in the bedroom. Roseboom disproved that theory at trial, testifying that: (1) a cigarette dropped on the floor generally does not cause a fire such as the one at issue here; and (2) if the fire had begun behind a dresser instead of in the center of the room, the burn pattern he observed in the room would have been different. We conclude from the record that there is sufficient evidence to sustain the conviction. *See Bald*, 766 N.E.2d at 1174 (affirming an arson conviction after considering evidence of the defendant's presence at the scene, motive, conduct before and after the fire, and proof that the fire was intentional). Connors argues that he had no motive to set the fire because many of his belongings were destroyed in the fire. He also notes that he did not flee from the police but rather cooperated in their investigation. These arguments are merely requests to reweigh the evidence.

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

Affirmed.

RILEY, J., and BRADFORD, J., concur.