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IN THE
COURT OF APPEALS OF INDIANA

TAMEKA MARIA REDDING,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A04-1102-CR-104
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable J. Jerome Frese, Judge
Cause No. 71D02-0912-FD-1215

July 12, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Tameka Redding appeals her conviction for attempted theft as a class D felony.[1] We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

On the evening of December 4, 2009, Redding and another woman entered a Hobby Lobby store. As they entered the store together, John Michael Thompson, the store's manager, observed one of the woman carrying a large purse that appeared empty. After Redding and the other woman entered the store, they split up, and one went to the floral department while the other went to the middle of the store to the home accent area where the candles were located. As Thompson was observing the two women, he asked his assistant manager, Dawn Sobol, to observe the woman in the home accent area. (Tr. 39). A few minutes later, Redding and the other woman reunited in the Christmas department and proceeded to register five to pay for a few decorative yard signs in their cart, which they did not have earlier. Thompson observed that one of the women had an ornament that was hanging "on the edge of a purse." (Tr. 50). After one of the women paid for the decorative yard signs, "Thompson instructed Sobol to call the police." (Tr. 50).

As Redding and the other woman walked toward the exit, Thompson took a step toward them. Then, Redding and the other woman started to talk about a display located

[1] Ind. Code § 35-43-4-2.

at the front wall and walked quickly to the Christmas department. Sobol followed Redding and the other woman to the Christmas department from the opposite end of the aisle and saw Redding and her companion removing items from the purse and placing them on the shelves by the boxed ornaments.

Approximately two minutes after Sobol called the police, Officer Anthony Stanchowiak of the Mishawaka Police Department arrived and quickly walked to the Christmas department where he observed Redding and the other woman crouched down near a shelf. Officer Stanchowiak arrested Redding and the other woman and took them to a classroom in the store. Sobol noticed that Redding and the other woman put several items on the shelf including "two candle jars, fashion ornaments, and a bridal knife serving set." (Tr. 94).

On December 7, 2009, the State charged Redding with attempted theft as a class D felony. On August 17, 2010, the State filed an information alleging Redding to be an habitual offender. Redding was tried by a jury on August 23 and 26, 2010. The jury found Redding guilty of attempted theft. Redding waived her right to a jury trial on the habitual offender allegation, and the trial court determined her to be an habitual offender. Following a sentencing hearing, the trial court sentenced Redding to six months for her attempted theft conviction and enhanced that sentence by eighteen months for her status as an habitual offender.

DECISION

Redding asserts that there is insufficient evidence to support her conviction for attempted theft. We disagree.

> 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 reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted).

To prove that Redding committed the crime of attempted theft as charged, the State was required to show that Redding engaged in conduct that constituted a substantial step towards knowingly exerting unauthorized control over property of another, with the intent to deprive the other person of any part of its value or use. *See* I.C. §§ 35-41-5-1; 35-43- 4-2(a).

"A 'substantial step' toward the commission of a crime, for purposes of the crime of attempt, is any overt act beyond mere preparation and in furtherance of intent to commit an offense." *Williams v. State*, 685 N.E.2d 730, 734 (Ind. Ct. App. 1997). The question of whether a defendant took a substantial step towards the commission of a crime is a question for the jury to decide based on the totality of the circumstances. *Collier v State*, 846 N.E.2d 340,344 (Ind. Ct. App. 2006), *trans. denied.*

At trial, the trial court instructed the jury as to accomplice liability. "A person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense, even if the other person: (1) has not been prosecuted for the

offense; (2) has not been convicted of the offense; (3) or has been acquitted of the offense." I.C. § 35-41-2-4.

Redding argues that the evidence does not support her conviction because Thompson did not testify exactly who had the purse and neither Thompson nor Sobol saw Redding put items in the purse. Redding argues that the State failed to prove that she engaged in conduct, either as a principal or an accomplice, which constituted a substantial step toward the crime of theft.

We will sustain a judgment based on circumstantial evidence alone if the circumstantial evidence supports a reasonable inference of guilt. *Pelley v. State*, 901 N.E.2d 494, 500 (Ind. 2009). A person's mere presence at the crime scene with the opportunity to commit a crime is not a sufficient basis on which to support a conviction. *Brink v. State*, 837 N.E.2d 192, 194 (Ind. Ct. App. 2005), *trans. denied*. "However, presence at the scene in connection with other circumstances tending to show participation, such as . . . the course of conduct of the defendant before, during, and after the offense, may raise a reasonable inference of guilt." *Id.* There is no difference in law between the principal actor and the accomplice. *Dix v State*, 639 N.E.2d 363, 368 (Ind. Ct. App. 1994).

Redding and the other woman acted together in this attempted theft. Thompson saw Redding and her companion enter the store together with an empty purse and then split up to different store departments. They reunited in the Christmas department and headed to the register where Thompson saw one of the women with an ornament hanging from the purse. When Thompson stopped Redding and the other woman in front of

Hobby Lobby's exit, Redding and the other woman, instead of exiting the store, went together to the Christmas department and put store items back on a shelf. Sobol also saw Redding and the other woman putting store items back on the shelf after Redding and the other woman went back to the Christmas department. Based on these facts, a jury could reasonably infer that Redding took a substantial step toward exerting unauthorized control over Hobby Lobby property. The evidence presented at trial is sufficient to support Redding's conviction for class D felony attempted theft.

We affirm.

RILEY, J., and BARNES, J., concur.