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IN THE COURT OF APPEALS OF INDIANA

JEFFREY COLE,	)	
	)	
Appellant,	)	
	)	
vs.	)	No. 49A02-1011-CR-1215
	)	
STATE OF INDIANA,	)	
	)	
Appellee.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable John Boyce, Judge
Cause No. 49F08-0911-CM-093244

July 15, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Jeffrey Cole ("Cole") was convicted in Marion Superior Court of Class A misdemeanor criminal trespass. Cole appeals and argues that the State presented insufficient evidence to support his conviction. We affirm.

Facts and Procedural History

On May 4, 2009, Clarian Health Methodist Hospital security officer Jermaine McFadden ("Officer McFadden") encountered Cole on the hospital's property. After determining that Cole had no legitimate purpose to be on the property, Officer McFadden issued Cole a written notice informing him that he was not to return to the property unless he was seeking employment, obtaining medical treatment, or visiting a patient. Officer McFadden also explained the notice to Cole and took a photograph of Cole for the hospital's records. Cole signed the notice, thereby indicating that he understood that he could be arrested for trespass if he violated the terms of the notice.

Six months later, shortly before midnight on November 5, 2009, hospital security sergeant Robert Dycus ("Sergeant Dycus") encountered Cole and his girlfriend, Tana Edmonson ("Edmonson"), in a building on the hospital's property. Sergeant Dycus asked if the couple needed assistance, and they asked for directions to public transportation, which Sergeant Dycus provided. Cole and Edmonson then left the building, but instead of following Sergeant Dycus's directions, they pried open a locked door and re-entered the hospital. Sergeant Dycus then alerted additional security guards to the couple's behavior and location, and Cole and Edmonson were subsequently stopped in the hospital's emergency room. After a computer search revealed that Cole had previously

been issued a trespass notice, Sergeant Dycus contacted the police and Cole was arrested for trespassing.

As a result of these events, the State charged Cole with Class A misdemeanor criminal trespass. A bench trial was held on October 18, 2010, and Cole was found guilty as charged. Cole now appeals.

Discussion and Decision

Cole argues that the State presented insufficient evidence to support his conviction. In reviewing a challenge to the sufficiency of the evidence, we neither reweigh the evidence nor judge the credibility of witnesses. Atteberry v. State, 911 N.E.2d 601, 609 (Ind. Ct. App. 2009). Instead, we consider only the evidence supporting the conviction and the reasonable inferences to be drawn therefrom. Id. 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, then the judgment will not be disturbed. Baumgartner v. State, 891 N.E.2d 1131, 1137 (Ind. Ct. App. 2008).

The criminal trespass statute is structured so that select statutory elements of criminal trespass may be applied to the many different circumstances in which criminal trespass may occur. In this situation, the State was required to prove that Cole, "not having a contractual interest in the property, knowingly or intentionally enter[ed] the real property of another person after having been denied entry by the other person or that person's agent." Ind. Code § 35-43-2-2(a)(1) (2004). A person may be "denied entry"

for the purposes of the criminal trespass statute by means of a "personal communication, oral or written[.]" I.C. § 35-43-2-2(b)(1).

Here, Cole does not dispute that he entered the property after having been denied entry or argue that he had a contractual interest in the property. Rather, he argues that he believed that the trespass notice had been rescinded and that, as a result, the State failed to establish that he "knowingly and intentionally" entered the hospital property after being denied entry. Specifically, he testified that prior to being issued the trespass notice, he worked as a newspaper deliveryman and routinely delivered newspapers to the hospital. According to Cole, after he was issued the trespass notice, his supervisor removed him from his route for approximately one month before he resumed delivering papers to the hospital. Cole testified that he was under the impression that it was "perfectly all right" for him to return to the property to deliver papers. Tr. p. 42.

"The belief that one has a right to be on the property of another will defeat the mens rea requirement of the criminal trespass statute if it has a fair and reasonable foundation." Taylor v. State, 836 N.E.2d 1024, 1028 (Ind. Ct. App. 2005), trans. denied. However, it is for the trier of fact to determine whether Cole believed that he had a right to be on the property and whether that belief is supported by a fair and reasonable foundation. See id. Cole's argument is essentially a request for us to reweigh the evidence, which we will not do on appeal. And in any event, the evidence presented at trial does not support a conclusion that Cole entered the property on November 5 for the

purposes of delivering newspapers. Rather, Edmonson testified that she and Cole were on their way to work when they stopped at the hospital to use the restroom.

Under these facts and circumstances, we conclude that the State presented sufficient evidence to support Cole's conviction for Class A misdemeanor criminal trespass.

Affirmed.

KIRSCH, J., and VAIDIK, J., concur.