

James Lewis appeals his conviction for burglary as a class C felony.¹ Lewis raises one issue, which we revise and restate as whether the evidence is sufficient to sustain his conviction. We affirm.

The relevant facts follow. On the morning of October 14, 2007, Clarian Health Security Guards Christopher Farish and Brian Hendricks were patrolling a building owned by Clarian Health when they observed that one of the windows had been broken out. Farish, Hendricks, and another security guard entered the building and verified that there was no one inside and “nothing was disturbed.” Transcript at 9. They then secured the broken window by placing two heavy doors against it, with one door bracing the other.

Hours later, Farish was again patrolling the building when he noticed that the two doors had been removed from the window. After he found a jacket and a “stump” placed under the window, Farish called Hendricks and another security guard back to the building. Id. at 11. Hendricks and the other security guard entered the building while Farish stayed outside “to see if anyone came out.” Id. at 13. On the second floor, Hendricks and the other security guard found Lewis shirtless standing next to a ladder with pieces of copper wiring around him on the floor. He was holding a pair of “wire . . . cutting type of pliers” in his hand, and copper wiring was dangling from the ceiling overhead. Id. at 30. Covered with dry wall dust and insulation, Lewis admitted to the security guards that he was “there to take copper.” Id. at 41.

¹ Ind. Code § 35-43-2-1 (2004).

The State charged Lewis with burglary as a class C felony, attempted theft as a class D felony, trespass as a class A misdemeanor, and criminal mischief as a class A misdemeanor. At the bench trial, Lewis testified that he was on his way to the hospital because of an injured thumb when he noticed that the window to the building was open. He entered the building through the window by hopping on the tree stump and then ate a can of fruit cocktail he found inside. He claimed that he was wandering around the building when a ceiling tile fell on him and that the security guards found him shortly thereafter. The trial court found him guilty of burglary as a class C felony, attempted theft as a class D felony, trespass as a class A misdemeanor, and the lesser included offense of criminal mischief as a class B misdemeanor.

At sentencing, the trial court entered judgments of conviction only as to burglary as a class C felony and attempted theft as a class D felony because of double jeopardy concerns.² The trial court found the fact that Lewis “had a pending criminal misdemeanor case” when he committed the present offense to be an aggravating factor, and found the fact that Lewis was homeless, has “substance abuse issues,” and has a limited criminal history to be mitigating factors. *Id.* at 82. Finding that the mitigators outweighed the aggravators, the trial court sentenced Lewis to two years executed through Community Corrections for the burglary conviction and one year executed through Community Corrections for the attempted theft conviction, with the sentences to be served concurrently.

² Lewis does not challenge his conviction or sentence for attempted theft.

The issue is whether the evidence is sufficient to sustain Lewis’s conviction for burglary. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court’s ruling. Id. We affirm the conviction unless “no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. Id.

The offense of burglary is governed by Ind. Code § 35-43-2-1, which provides that “[a] person who breaks and enters the building or structure of another person, with intent to commit a felony in it, commits burglary, a Class C felony.” Thus, to convict Lewis of burglary as a class C felony, the State needed to prove that he broke and entered a building owned by Clarian Health with the intent to exert unauthorized control over copper wiring in the building.

Lewis contends that the State failed to prove the element of breaking. He argues that “[i]t is certainly possible that someone other than [him] removed the board from the window after the officers left in the morning but before his arrival.” Appellant’s Brief at 8. “A conviction of burglary may be sustained upon circumstantial evidence alone.” Gilliam v. State, 509 N.E.2d 815, 817 (Ind. 1987).

Here, the security guards secured the broken window of the building with a pair of doors. When they found that the doors had been removed, two of the guards entered the building, where they found Lewis next to a ladder, with a pair of pliers in his hand, surrounded by copper wire, and covered with drywall dust and insulation. Given evidence of a breaking and entry and Lewis's activities once inside the building, we conclude that the evidence was sufficient to support his conviction for burglary as a class C felony. See, e.g., Payne v. State, 777 N.E.2d 63, 67 (Ind. Ct. App. 2002) ("Given the evidence of a breaking and entry and Payne's possession of the recently stolen VCR, we conclude that the evidence is sufficient to support Payne's conviction [for burglary].").

For the foregoing reasons, we affirm Lewis's convictions for burglary as a class C felony and attempted theft as a class D felony.

Affirmed.

DARDEN, J. and NAJAM, J. concur