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ATTORNEY FOR APPELLANT:

JEFFREY L. SANFORD
South Bend, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

MICHAEL GENE WORDEN
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

CHARLES WALKER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A04-0812-CR-742
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable R. W. Chamblee, Judge
Cause No. 71D03-0810-FB-131

August 4, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Charles Walker appeals from his conviction for Attempted Robbery, as a Class B felony, and for being an Habitual Offender, following a jury trial. Walker raises a single issue for our review, namely, whether the State presented sufficient evidence to support his habitual offender enhancement.

We affirm.

FACTS AND PROCEDURAL HISTORY

On September 2, 1992, Walker pleaded guilty in a Michigan state court to a charge of possession of cocaine. As a result, Walker was sentenced to a three-year term of probation. On February 25, 2008, Walker pleaded guilty in a Michigan state court to a charge of larceny. Walker was sentenced to 365 days in jail for that crime.

On October 3, 2008, the State filed an amended charging information against Walker alleging that he had attempted to commit robbery and that he was an habitual offender. At Walker's trial, the State introduced into evidence the charging information, case summaries, and other documents from the two Michigan proceedings in support of the habitual offender enhancement. The jury found Walker guilty as charged and the trial court entered its judgment of conviction and sentence accordingly. This appeal ensued.

DISCUSSION AND DECISION

Walker argues that the State failed to present sufficient evidence to demonstrate that he was an habitual offender. When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting

the verdict and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

To demonstrate that Walker was an habitual offender, the State was required to prove beyond a reasonable doubt that, at the time of his Indiana trial, Walker had accumulated two prior unrelated felony convictions. Ind. Code § 35-50-2-8. "A felony conviction is defined as 'a conviction, in any jurisdiction at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year.'" Stewart v. State, 688 N.E.2d 1254, 1258 (Ind. 1997) (quoting I.C. § 35-50-2-1(b) (1993)). "It is the length of the term of imprisonment that is important, not whether the crime is classified by the other jurisdiction as a felony or misdemeanor." Id.

Here, Walker contends only that the 2008 Michigan conviction is not a "felony" as described by our Supreme Court in Stewart.[1] Specifically, Walker asserts that the State's evidence during his jury trial did not demonstrate that he could have been sentenced to more than one year for the 2008 Michigan conviction. We cannot agree.

While the documents from the Michigan courts are less than clear, including a noticeable blank space in the "Maximum penalty" area of the amended 2008 charging information, see Appellant's App. at 116, nonetheless the State met its burden at trial. On the amended 2008 charging information for the Michigan crime of larceny, which was submitted to the Indiana jury, the following is stated:

[1] There is no dispute that Michigan law defined the crime of larceny as a felony.

> CT.2 [sic[2]]: did commit the crime of larceny in a hotel by stealing money . . . .
>
> FELONY: 4 years and/or $5,000.00; court shall order law enforcement to collect DNA identification profiling samples and order defendant to pay $60.00 assessment[.]

Id. A reasonable inference that can be drawn from that evidence is that Walker was facing a penalty of four years imprisonment for the Michigan crime of larceny. See Jones, 783 N.E.2d at 1139 ("We look only to the probative evidence supporting the verdict and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty . . . ."). Thus, we must affirm Walker's habitual offender enhancement.

Affirmed.

KIRSCH, J., and BARNES, J., concur.

[2] This is the only count alleged in the amended 2008 charging information.