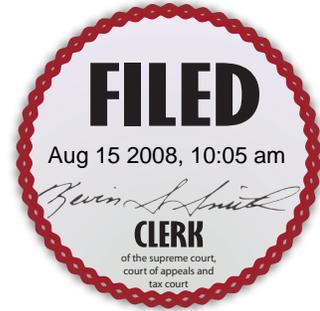


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

DARRYL JACKSON,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 29A02-0801-CR-1

APPEAL FROM THE HAMILTON CIRCUIT COURT
The Honorable Judith Proffitt, Judge
Cause No. 29C01-0607-FC-0141

August 15, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Darryl Jackson (“Jackson”) was convicted in Hamilton Circuit Court of Class D felony theft. He appeals and argues that the evidence is insufficient to support his conviction under a theory of accomplice liability. We affirm.

Facts and Procedural History

In June, 2006, Jackson was involved in a romantic relationship with seventeen-year-old A.V. During that month, Jackson initiated discussions with A.V. about robbing a bank. Jackson instructed A.V. to display a written note to the teller, keep her hands out of her pockets, and keep her head down. Jackson also told A.V. that if she robbed a bank she would not get into as much trouble because of her age. Jackson stated that if A.V. loved him, she would rob a bank, and that he would love her more for doing so.

On July 7, 2006, Jackson and A.V. discussed robbing a bank. They looked at a map and decided that they would attempt to rob a bank north of Bloomington, which is where they had rented a motel room. The next day they drove to Elwood, Indiana. Jackson wrote a demand note for A.V. to give to the bank teller. A.V. drove to two banks, but they were not open. Jackson and A.V. then drove to Noblesville, and she parked the car near a Huntington Bank branch. Jackson reminded A.V. to keep her head down and to take the note back from the teller. Jackson remained in the car while A.V. went into the bank with the note demanding money. A.V. then returned to the vehicle with \$6746, and the couple drove back to Bloomington.

After the robbery, Jackson burned the demand note. He also discovered and destroyed the dye pack contained in the stolen money so that it would not explode.

Jackson and A.V. disposed of the dye pack in a wooded area. They then took the money and went shopping.

On July 14, 2006, Jackson was charged with Class C felony robbery and Class D felony theft. A three-day jury trial commenced on October 29, 2007. Jackson was found not guilty of robbery, but guilty of theft. Jackson was ordered to serve a three-year sentence. He appeals.

Discussion and Decision

When we review 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 judgment and the reasonable inferences therein 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 establish that Jackson committed Class D felony theft, the State was required to prove that he knowingly or intentionally exerted unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use. Ind. Code § 35-43-4-2 (2004). Jackson argues that the evidence established only that A.V. committed the offenses of robbery and theft, and the State failed to prove that he acted as her accomplice.

In Indiana, there is no distinction between the responsibility of a principal and an accomplice. Wise v. State, 719 N.E.2d 1192, 1198 (Ind. 1999). Under the accomplice liability statute, a person who knowingly or intentionally aids, induces, or causes another

person to commit an offense commits that offense. Ind.Code § 35-41-2-4 (2004). Under the theory of accomplice liability, it is not necessary that the defendant participate in every element of that crime. Ransom v. State, 850 N.E.2d 491, 496 (Ind. Ct. App. 2006). To determine whether a person aided or was an accomplice to another in the commission of a crime, our Supreme Court has long considered the following four factors:

(1) presence at the scene of the crime; (2) companionship with another engaged in criminal activity; (3) failure to oppose the crime; and (4) a defendant's conduct before, during, and after the occurrence of the crime.

Garland v. State, 788 N.E.2d 425, 431 (Ind. 2003).

Although Jackson did not go into the bank with A.V., he was waiting in A.V.'s vehicle parked nearby. He and A.V., who were involved in a romantic relationship, had discussed robbing a bank, and that discussion was initiated by Jackson. Jackson used that relationship to influence A.V. to rob a bank. He also told her that she would not get into as much trouble because her age. Jackson gave A.V. instructions on robbing a bank and wrote the demand note A.V. used during the commission of the robbery. After A.V. robbed the bank, Jackson burned the demand note and destroyed and disposed of the dye pack. Shortly after the robbery, Jackson and A.V. went shopping. Finally, after he was arrested, Jackson admitted that some of the money in his wallet may have "came [sic] from the bank robbery that was committed." Tr. p. 311.

This evidence supports a reasonable inference that Jackson encouraged A.V. to rob the Huntington Bank, assisted her in doing so, and that Jackson knowingly or intentionally exerted unauthorized control over Huntington Bank's money. Accordingly,

we conclude that sufficient evidence supports Jackson's Class D felony theft conviction.

Affirmed.

MAY, J., and VAIDIK, J., concur.