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**IN THE  
COURT OF APPEALS OF INDIANA**

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STEVE A. MORRISON,

Appellant,

vs.

STATE OF INDIANA,

Appellee.

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No. 29A02-1012-IF-1337

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APPEAL FROM THE HAMILTON SUPERIOR COURT  
The Honorable Wayne A. Sturtevant, Judge  
The Honorable David K. Najjar, Magistrate  
Cause No. 29D05-1005-IF-2384

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**August 31, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**DARDEN, Judge**

STATEMENT OF THE CASE

Steve Morrison appeals the trial court's finding that he committed the class C infraction of failing to yield the right-of-way to an emergency vehicle.<sup>1</sup>

We affirm.

ISSUE

Whether there is sufficient evidence to support the finding that Morrison committed a traffic infraction.

FACTS

At approximately 2:00 a.m. on May 1, 2010, Fishers Police Officer Robert Murray was patrolling in a marked police vehicle when he observed Morrison fail to utilize his vehicle's turn signal as he turned south onto Brooks School Road from 116<sup>th</sup> Street. Officer Murray "caught up with the vehicle and activated [his] emergency equipment just south of that intersection." (Tr. 10). Morrison, however, continued driving without any indication, such as a turn signal or hazard signal, that he intended to stop. Morrison drove for approximately "3/10 of a mile before finally stopping . . . ." (Tr. 10).

When Officer Murray asked Morrison why he did not immediately stop, he replied that "he felt there was nowhere safe to stop" and "continued down until he could find one." (Tr. 10). Believing that Morrison could have stopped sooner, Officer Murray issued Morrison a citation for failing to yield to an emergency vehicle.

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<sup>1</sup> Ind. Code § 9-21-8-35.

The trial court held a bench trial on October 6, 2010. Morrison conceded that he traveled 3/10 of a mile before stopping for Officer Murray. He testified that he did not stop for Officer Murray because his “initial reaction was [he] did not know that [he] had done anything wrong. [He] was not speeding. . . . [He] was doing [his] best to maintain all traffic laws.” (Tr. 13). He also testified that because he did not think that he had committed a traffic violation, he reduced his speed to twenty miles per hour and “continued down the road,” believing “the officer might continue on around [him].” (Tr. 13).

Murray further testified that “[a]t that point,” approximately “2/10 of a mile down Brooks School Road,” the road was “very hilly,” with trees along the right side. (Tr. 13). He then pulled over “at the first rock side that was available.” (Tr. 13).

Officer Murray testified that he believed there was safe place to stop prior to where Morrison stopped and that Morrison “should have pulled over as soon as” he activated his emergency lights. (Tr. 10). Finding that Morrison committed the class C infraction of failing to yield the right-of-way to an emergency vehicle, the trial court imposed a fine of \$35.50 and assessed costs in the amount of \$114.50.

### DECISION

Morrison asserts that the evidence is insufficient to prove that he failed to yield the right-of-way to an emergency vehicle pursuant to Indiana Code section 9-21-8-35. He

argues that the trial court improperly relied on Officer Murray's testimony that Morrison could have pulled over in a safe manner.<sup>2</sup>

Traffic violations are civil in nature, and therefore, the State must prove the commission of the infraction by only a preponderance of the evidence. *Rosenbaum v. State*, 930 N.E.2d 72, 74 (Ind. Ct. App. 2010), *trans. denied*. "When reviewing a challenge to the sufficiency of the evidence, we will neither reweigh the evidence nor judge the credibility of witnesses." *Id.* "Rather, we look to the evidence that best supports the judgment and all reasonable inferences to be drawn therefrom." We will not overturn the trial court's judgment if it is supported by substantial evidence of probative value. *Id.*

Indiana Code section 9-21-8-35 provides, in pertinent part, as follows:

(a) Upon the immediate approach of an authorized emergency vehicle, when the person who drives the authorized emergency vehicle is giving audible signal by siren or displaying alternately flashing red, red and white, or red and blue lights, a person who drives another vehicle shall do the following unless otherwise directed by a law enforcement officer:

- (1) Yield the right-of-way.
- (2) Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection.
- (3) Stop and remain in the position until the authorized emergency vehicle has passed.

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<sup>2</sup> Morrison concedes that the statute requires "immediate" compliance. Morrison's Reply Br. at 2 (quoting State's Br. at 3).

Here, the evidence presented shows that after observing a traffic violation, Officer Murray followed Morrison's vehicle in a marked police vehicle with his emergency equipment activated. During the trial, Morrison admitted that he drove 3/10 of a mile before stopping, stating that he neither pulled over nor stopped immediately because he did not believe that he had committed a traffic violation. While Morrison subsequently asserted that there was no safe place to stop initially, Officer Murray testified to the contrary.

Morrison argues that Officer Murray's testimony regarding whether there was a safe place to stop was mere opinion and conflicted with his own testimony regarding the nature of the road. Even considering these arguments, we find no abuse of discretion in the trial court's ruling. We note that Indiana Code section 9-21-8-35 does not set forth a defense or exception to compliance other than language that the driver must pull over clear of any intersection; and as to traffic infractions, "[a] mere showing the statute was violated by the defendant suffices." *See Pridemore v. State*, 577 N.E.2d 237, 238 (Ind. Ct. App. 1991).

Morrison's argument that this court should disregard Officer Murray's testimony is merely a request for us to reweigh the evidence and judge the witnesses' credibility, which we will not do. We find the evidence is sufficient to support Morrison's class C infraction for failing to yield the right-of-way to an emergency vehicle.

Affirmed.

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