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IN THE
COURT OF APPEALS OF INDIANA

WILLIAM HENRY ROGERS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 82A01-0904-CR-177
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE VANDERBURGH SUPERIOR COURT
The Honorable Robert J. Pigman, Judge
Cause No. 82D02-0801-FD-0002

September 24, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant William Henry Rogers appeals his conviction for Theft,[1] a class D felony, arguing that there is insufficient evidence supporting his conviction. Finding sufficient evidence, we affirm.

FACTS

On December 29, 2007, Rogers was shopping in a Macy's store in Vanderburgh County. Gina Miller, the store's loss prevention manager, received a call from a concerned associate regarding Rogers's presence in the women's coat department because Rogers was "exhibiting certain behaviors" that are generally associated with "people that may shoplift." Tr. p. 40-41. After receiving the call, Miller began observing Rogers from the camera room.

Miller observed Rogers pick up a red leather coat as he stood behind a coat fixture, and her view became obscured as he bent over the fixture. Miller asked Grant Rowan, another loss prevention officer, to stand outside the store next to the exit closest to the women's coat department. Miller observed Rogers stand up and move toward the exit. As Rogers exited the first set of doors, Miller noticed a bulge on his left side underneath his coat and saw a piece of the red leather coat underneath Rogers's coat.

Rogers exited the second and final set of doors. Upon leaving the store, Rogers noticed and made eye contact with Rowan, who was standing outside the store next to the exit. Rogers immediately turned around and went back into the store. Once Rogers reentered the store, he made "a motion to pull [the leather coat] out from underneath his

[1] Ind. Code § 35-43-4-2(a).

coat and throw it on the floor." Id. at 42. Rogers then exited the store again but was eventually escorted back inside by Miller and Rowan. The red leather coat was retrieved from the same area where Rogers had been when he walked back into the store.

Miller and Rowan took Rogers into their office and questioned him, but he refused to respond. They called the police and Officer Kasey Ross responded. Officer Ross placed Rogers in custody and read him his Miranda[2] rights. Miller and Rowan informed the officer that they had found a crack pipe on Rogers's person. Officer Ross asked Rogers if "he had [left the store with the leather coat] to support a, a habit," and Rogers responded affirmatively. Id. at 34-35.

On January 2, 2008, the State charged Rogers with class D felony theft. At the close of Rogers's February 19, 2009, jury trial, the jury found him guilty as charged. On March 11, 2009, Rogers was sentenced to three years imprisonment. He now appeals.

DISCUSSION AND DECISION

Rogers's sole argument on appeal is that the evidence is insufficient to support the conviction. When reviewing a challenge to the sufficiency of the evidence, we neither reweigh the evidence nor assess witness credibility. Alkhalidi v. State, 753 N.E.2d 625, 627 (Ind. 2001). We will consider only the evidence supporting the verdict and all reasonable inferences that may be drawn therefrom, and will affirm unless no rational factfinder could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000). Circumstantial evidence alone may

[2] Miranda v. Arizona, 384 U.S. 436 (1966).

support a conviction if inferences may reasonably be drawn therefrom that allowed the factfinder to find the defendant guilty beyond a reasonable doubt. Gonzalez v. State, 908 N.E.2d 338, 340 (Ind. Ct. App. 2009). To convict Rogers of theft, the State was required to prove beyond a reasonable doubt that he knowingly exerted unauthorized control over Macy's property with the intent to deprive Macy's of any part of the property's value or use. I.C. § 35-43-4-2(a).

The State established that Rogers was exhibiting suspicious behavior in the women's coat department of Macy's. After Miller began observing him from the camera room, she noticed him standing next to and pick up a red leather coat. She saw him bend over, and when he stood back up, he had a bulge on his left side underneath his coat. As he exited the store, Miller saw the red leather coat underneath his coat. Rogers left the store and saw Rowan, who was stationed just outside the exit. Rogers made eye contact with Rowan and immediately reentered the store and appeared to remove the red leather coat and place it on the floor. Rogers then left the store again but was escorted back inside. The leather coat was retrieved from the same area where Rogers had been when he reentered the store after seeing Rowan. Officer Ross testified that he asked Rogers

> about why he had—a grown man had decided to, you know, leave the store with a women's, with a woman's coat to which he didn't reply. Given that he had a crack pipe on him I simply asked if he had done that to support a, a habit. I didn't specify which habit and he stated that he had done that in order to support his habit.

Tr. p. 34-35. Miller and Rowan both witnessed Rogers's affirmative response to the officer's query.

On appeal, Rogers focuses on the fact that no one actually saw him leave the store with the coat on his person. This argument amounts to a request that we reweigh the evidence, however, which we may not do. A reasonable factfinder could infer from the evidence described herein that Rogers left the store with the red leather coat hidden underneath his coat. Therefore, we find that there is sufficient evidence supporting his conviction.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and RILEY, J., concur.