

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.

ATTORNEY FOR APPELLANT:

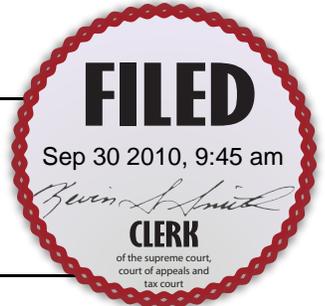
TIMOTHY J. BURNS
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

MONIKA PREKOPA TALBOT
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**



LEON WILLIAMS,)
)
 Appellant-Defendant,)
)
 vs.)
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

No. 49A02-1003-CR-306

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Shatrese M. Flowers, Judge
Cause No. 49F019-0910-CM-91795

September 30, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Leon Williams appeals his conviction for Resisting Law Enforcement¹, a class A misdemeanor, arguing that there is insufficient evidence supporting his conviction. Finding the evidence sufficient, we affirm.

On October 15, 2009, Sergeant Jeffrey McCleerey of the Speedway Police Department observed a vehicle repeatedly drive left of the center line. Williams was a passenger in the vehicle. Officer McCleerey, who was driving a fully marked police vehicle, activated his emergency lights and initiated a traffic stop. The vehicle continued driving, entering and exiting a Taco Bell parking lot, eventually stopping on the south side of a restaurant adjacent to the Taco Bell. When the officer approached the vehicle, Williams exited and started walking towards the Taco Bell. Officer McCleerey ordered Williams to get back in the vehicle. Williams complied, but once he reentered the vehicle, the driver began driving again and fled the area.

Officer McCleerey activated his siren and chased the vehicle. The chase continued on the streets and through an apartment complex; eventually, the vehicle crashed. At some point before the crash, Williams opened the right passenger door and jumped out when the vehicle was still moving. Officer McCleerey ordered Williams to stop using his in-car public address system, but Williams did not comply and fled the scene. Officer McCleerey apprehended the vehicle's driver, and five days later, the officer positively identified Williams as the passenger.

¹ Ind. Code § 35-44-3-3(a)(3).

On November 3, 2009, the State charged Williams with class A misdemeanor resisting law enforcement. At the February 25, 2010, bench trial, Williams testified that he knew that Officer McCleerey had been following the vehicle with his lights and siren turned on after Williams had reentered the vehicle. He also admitted that he had fled the scene after jumping out of the vehicle rather than sitting on the ground and waiting for the officer to return. The trial court found Williams guilty as charged and sentenced him to 365 days with 361 days suspended to probation.

Williams now appeals, arguing that the evidence is insufficient to support his conviction. In evaluating the sufficiency of the evidence supporting a conviction, we neither reweigh the evidence nor assess witness credibility, and will focus on the evidence most favorable to the verdict together with the reasonable inferences that may be drawn therefrom. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We will affirm unless no reasonable factfinder could find the elements of the crime proved beyond a reasonable doubt. Id.

To convict Williams of class A misdemeanor resisting law enforcement, the State was required to prove beyond a reasonable doubt that he knowingly or intentionally fled from Officer McCleerey after the officer had, by visible or audible means, identified himself and ordered Williams to stop. I.C. § 35-44-3-3(a)(3). Evidence of a proper order to stop is based on the circumstances surrounding the incident and whether a reasonable person would have known that he or she had been ordered to stop. Fowler v. State, 878 N.E.2d 889, 895 (Ind. Ct. App. 2008).

The record reveals that Williams was a passenger in a vehicle that had been stopped by Officer McCleerey. Williams exited the vehicle but reentered it upon being ordered to do so by the officer. The driver of the vehicle then drove away, with Officer McCleerey pursuing the vehicle with his emergency lights on and siren activated. Williams exited the vehicle while it was still moving, at which time Officer McCleerey ordered him to stop over the public address system in his police cruiser. Williams, however, fled the scene.

Williams contends that he did not hear the officer's order to stop. Initially, we note that a rational factfinder could easily have concluded from the evidence that Williams did, in fact, hear the officer's order but chose to ignore it. This argument amounts to a request that we assess witness credibility and reweigh evidence, which we may not do.

Furthermore, even if Williams did not hear the order to stop, he testified that he knew that his vehicle was being pursued by a police officer whose emergency lights and siren were activated. Under these circumstances, even absent an audible order to stop, a reasonable person would have known that he or she was to stop upon exiting the vehicle. Therefore, we find the evidence sufficient to support Williams's conviction for class A misdemeanor resisting law enforcement.

The judgment of the trial court is affirmed.

NAJAM, J., and MATHIAS, J., concur.