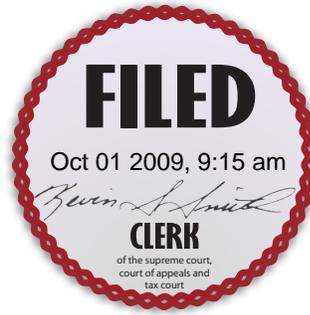


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

RASHAD HASSAN,)
)
Appellant-Defendant,)
)
vs.) No. 49A02-0903-CR-249
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Barbara Collins, Judge
Cause No. 49F08-0811-CM-262411

October 1, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Following a bench trial, Rashad Hassan was convicted of Criminal Trespass,¹ a class A misdemeanor. Hassan challenges the sufficiency of the evidence supporting his conviction as the sole issue on appeal.

We affirm.

The facts most favorable to the conviction are that during the evening hours of November 17, 2008, Hassan went to Indy Towing Service to pick up his vehicle that had been towed at the direction of the police. While in the business office, Hassan encountered Sonja Milliken, a dispatcher for Indy Towing Service, and spoke to her about retrieving his vehicle. Milliken explained to Hassan that he needed to pay fees at the Police Department Auto Desk located in the Indianapolis, Marion County City County Building. Milliken also showed Hassan what the paperwork looked like and told him that he could retrieve his vehicle after he came back with the necessary paperwork. Hassan showed Milliken different paperwork that he had received from the Auto Desk and claimed that he had already paid his fees. Milliken told Hassan to leave and not to come back until he had the proper paperwork.

After being informed that he had not received the proper documents from the Auto Desk, Hassan started “rantin’[sic]” and demanded the release of his vehicle. *Transcript* at 7. Milliken again told Hassan to leave the premises. Hassan then stated, “why I guess I goin’ [sic] have [sic] go get my gun.” *Id.* at 10. Upon hearing this, Milliken called the police.

Officer Adam Chappell of the Indianapolis Metropolitan Police Department

¹ Ind. Code Ann. § 35-43-2-2 (West, PREMISE through Public Laws approved and effective through 4/20/2009).

responded to the call. When Officer Chappell arrived, Milliken told him that Hassan was causing a disturbance. Milliken explained that Hassan lacked the proper paperwork to retrieve his car and that she had asked him to leave. Officer Chappell told Hassan to leave and not to return until he had the necessary paperwork. Hassan became upset, was pacing back and forth, and refused to leave. Officer Chappell then informed Hassan that if Hassan did not leave, he would arrest Hassan for criminal trespass. Hassan “threw up his hands and walked out of the business, walked out into the driveway and started walking towards Southerland [sic].” *Id.* at 14. He turned around “shortly thereafter” and walked back to the business. *Id.* Officer Chappell met Hassan at the front steps of the business and placed Hassan under arrest.

On November 18, 2008, the State charged Hassan with criminal trespass as a class A misdemeanor. A bench trial was held on February 2, 2009, at the conclusion of which the trial court found Hassan guilty as charged. Hassan was subsequently sentenced to a 365-day suspended sentence. Hassan now appeals.

1.

Hassan argues that the evidence is insufficient to support his conviction. When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder’s exclusive province to weigh the evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the conviction, and “must affirm ‘if the probative evidence and reasonable inferences drawn from the

evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.” *Id.* at 126 (*quoting Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

The charging information states in relevant part:

On or about November 17, 2008, in Marion County, State of Indiana, at 3350 Sutherland location, the following named defendant, Rashad Hassan, did knowingly and intentionally . . . enter the real property of Indy Towing Service, another person, after having been denied entry by said other person or an agent of said other person, said defendant not having a contractual interest in said real property.

Appellant’s Appendix at 14. Thus, to convict Hassan of criminal trespass the State was required to prove that Hassan, (1) not having a contractual interest in the property; (2) knowingly or intentionally; (3) entered the real property of another person; (4) after having been denied entry by the other person or the other person’s agent. I.C. § 35-43-2-2.

Hassan argues that the State did not establish that he ever left the premises so as to support a finding that he “enter[ed]” the real property of Indy Towing Service after having been denied entry. *Appellant’s Appendix* at 14. Hassan is simply asking that we reweigh the evidence.

Officer Chappell testified that Hassan “walked out of the business, walked out into the driveway and started walking towards Southerland [sic]”, but that Hassan turned around and walked back to the business. *Transcript* at 14. During cross-examination, Hassan stated that after he walked outside, he turned around and “came back to the premises.” *Id.* at 22. From the testimony of Officer Chappell and Hassan himself, a reasonable inference can be drawn that Hassan left the real property of Indy Towing Service and then re-entered the real property of Indy Towing Service, after having been told to leave and not to return until he

had the proper paperwork. It was upon his re-entry onto the property that Officer Chappell placed Hassan under arrest. The evidence is sufficient to support Hassan's conviction for criminal trespass.

Judgment affirmed.

BAKER, C.J., and RILEY, J., concur.