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IN THE
COURT OF APPEALS OF INDIANA

ERIC HALL,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1003-CR-244
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Clark Rogers, Judge
Cause No. 49F17-0903-FD-31560

November 29, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Eric Hall appeals his conviction of Criminal Trespass,[1] a class A misdemeanor, challenging the sufficiency of the evidence supporting the conviction as the sole issue on appeal.

We affirm.

The facts favorable to the conviction are that Hall and Erica Mayes had lived together and had two children, Ny.H. and N.H. By February 12, 2009, however, Hall and Mayes had not lived together for four or five months. On that day, Hall traveled to Mayes's apartment to pick up their daughters and Mayes's third child, N.M. and take them to a movie. When Hall arrived at Mayes's apartment, he did not see her car and telephoned her. The two had been arguing recently and Mayes informed Hall that she was on her way home and instructed him to wait outside until she returned. Hall responded that he would not stay outside and that his daughters would let him into her apartment. Mayes called N.H. and instructed her not to let Hall into the apartment. Mayes arrived home as Hall approached her apartment door. She told him to move out of her parking spot. Hall disregarded Mayes and knocked on the door. Ny.H., the youngest daughter, answered the door and let him in.

Upon entering, Hall followed N.M. upstairs. About then, Mayes entered the apartment and began yelling at Hall and telling him to leave. He refused to comply and continued up the stairs. Mayes followed him upstairs and told him to go outside and wait in his car. Meanwhile, Mayes told her daughters they would not be allowed to go to the movie. Mayes finally caught up with Hall in Ny.H.'s room, where she pulled on his sweatshirt and ordered him to leave. She told him she would call the police if he did not do so. Hall put his

[1] Ind. Code Ann. § 35-43-2-2 (West, Westlaw through 2010 2nd Regular Sess.).

hands around Mayes's throat and began to tighten his grip, while Mayes began slapping him. The two ultimately ended up in a bathroom, where Hall pushed Mayes to the floor and she landed on her back. When she attempted to get up, Hall put his foot on her chest and pushed her back down. This happened several times. At some point, Hall left the bathroom, went downstairs, and went out to his car to leave. Once there, he discovered that he had dropped his phone and keys inside the apartment and went back inside to retrieve them. Meanwhile, Mayes had called the police. In fact, she was on the phone with police when Hall came upstairs to get his phone and keys. As he left the apartment the second and final time, he kicked out the bottom portion of the screen door.

As a result of these events, the State charged Hall with domestic battery, battery, strangulation, and criminal confinement, all as class D felonies, and domestic battery, battery, and trespass, as class A misdemeanors. Hall was convicted only of the trespass charge following a jury trial.

Hall contends the evidence was insufficient to support the conviction for criminal trespass. Specifically, he contends the State failed to prove either that he acted with criminal intent or that he refused to leave Mayes's apartment after being asked to do so. These are elements of I.C. § 35-43-2-2(a), which provides that a person commits criminal trespass when, not having a contractual interest in the real property of another, he (1) knowingly or intentionally enters that property after having been denied entry by that person or that person's agent; or (2) knowingly or intentionally refuses to leave the property after having been asked to do so.

Our standard of review for challenges to the sufficiency of evidence is well settled:

> When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. *Henley v. State*, 881 N.E.2d 639, 652 (Ind. 2008). "We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence." *Id*. We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. *Id*.

Bailey v. State, 907 N.E.2d 1003, 1005 (Ind. 2009).

We begin by observing that Hall admitted at trial that he did not have a possessory interest in the property in question, i.e., Mayes's apartment. He admitted that he was not on the lease, did not have a key to the apartment, and had not lived there for four or five months. His challenge to the sufficiency of the evidence is essentially that he entertained "a good-faith belief that he had a contractual right to be in Mayes' apartment based upon their pre-negotiated agreement that he could pick up the kids for a trip to the movies [and] that he had a right to be in Mayes's apartment at the time[.]" *Appellant's Brief* at 4. The facts supporting the conviction belie this assertion. While there is evidence that the parties agreed ahead of time that Hall would pick up the children and take them to a movie, there is no evidence of an agreement that he would *enter into* Mayes's apartment in order to accomplish this task. In fact, when Hall phoned Mayes from his car and asked where she was, she told him that he was not to go inside the apartment but instead was to wait outside. Any good-faith belief that he was permitted to go into Mayes's house would have dissipated at that point. He disregarded that instruction and went inside anyway. A contrary conclusion on this question would necessarily require a reweighing of the evidence, which is beyond our

scope of review. *See Bailey v. State*, 907 N.E.2d 1003.

Hall also claims that the evidence was insufficient to show that he remained in the apartment after having been instructed to leave. Again, this assertion is at odds with the evidence we are constrained to consider. Leaving aside for the moment the events that occurred before he first entered the apartment, the evidence reveals that Mayes entered her apartment seconds after Hall did and told him in no uncertain terms to leave. He disregarded her command and continued up the stairs, with Mayes close on his heels. Once upstairs, as soon as she was near enough, Mayes grabbed Hall and told him she would call police if he did not leave. A physical altercation ensued, culminating in Hall pinning Mayes to the floor and physically preventing her from standing up. Shortly thereafter, Hall left the apartment, but his departure can hardly be characterized as a "diligent attempt leave [sic] as quickly as possible." *Appellant's Brief* at 8. Therefore, the evidence was sufficient to demonstrate that Hall did not leave the apartment when asked.

Judgment affirmed.

MAY, J., and MATHIAS, J., concur.