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IN THE
COURT OF APPEALS OF INDIANA

CARLOS DESHAWN PACK,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A03-0904-CR-158
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable R. W. Chamblee, Jr., Judge
Cause No. 71D08-0811-FC-357

November 30, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Carlos Deshawn Pack appeals his conviction of criminal recklessness, a Class C felony.[1] He asserts the evidence is insufficient to support his conviction. Finding the evidence sufficient, we affirm.

FACTS AND PROCEDURAL HISTORY

On Thanksgiving Day 2008, Laronn Williams hosted a party at his home in South Bend. Pack arrived around 10 a.m. and began drinking an alcoholic punch Williams prepared for the party. Pack consumed several glasses of punch before leaving the party around 1:15 p.m. to pick up his girlfriend, Lori Willis. Pack returned with Willis around 1:45 p.m. Soon thereafter, guests began to arrive, and approximately seventeen people were at the home, including some children. Pack and Paul Pope got into an argument, and at one point Pack shoved Pope's girlfriend. Williams grabbed Pack and told him to leave. Pack refused, so Williams punched Pack. Pack left with Willis, and the two said they would be back.

About twenty minutes later, Williams heard his cousin say Pack was outside Williams' home with a gun. Williams told everyone to go upstairs to the attic. Williams went to shut the front door and saw Pack with a gun about ten feet away. Williams ran upstairs and heard gunshots fired into the home. When the firing stopped, Williams looked through a bedroom widow and saw Pack leaving in Willis' vehicle. Bullet holes were found in Williams' walls, windows, and television. Police located Pack that

[1] Ind. Code § 35-42-2-2(c)(3).

evening at Willis' apartment and found a gun above a ceiling tile. Williams identified Pack as the shooter.

Pack was charged with Class C felony criminal recklessness and Class C felony carrying a handgun without a license with a prior felony conviction.[2] Pack was found guilty of criminal recklessness, and he pled guilty to the other charge. The trial court sentenced Pack to eight years for each count to be served concurrently, but consecutive to a prior sentence for battery.

DISCUSSION AND DECISION

There was ample evidence to sustain Pack's conviction of criminal recklessness. In reviewing the sufficiency of evidence to support a conviction, "appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict." *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It is the role of the fact-finder, not the appellate court, to assess the credibility of the witnesses and weigh the evidence to determine whether a conviction is warranted. *Id.* "To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling." *Id*. We will affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." *Id*.

To convict Pack of criminal recklessness as a Class C felony, the State was required to prove beyond a reasonable doubt that Pack "recklessly, knowingly, or

[2] Ind. Code § 35-47-2-1, -23(c).

intentionally performed an act that created a substantial risk of bodily harm to another person," Ind. Code § 35-42-2-2(b), and the act was "committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather." Ind. Code § 35-42-2-2(3)(a).

Pack notes the only testimony implicating him came from Williams, who claimed he saw Pack with a gun outside his home and heard gunshots shortly thereafter. The State did not call other witnesses to identify Pack as the shooter. Pack's sister, Patrice Peete, testified that Williams was biased against Pack because Pack had implicated Williams' brother in another offense. Peete also testified that Aaron Thomas told her he fired the shots into Williams' home. Pack claims that in light of Peete's unchallenged testimony, Williams' uncorroborated testimony is insufficient to support the conviction.

The jury heard evidence that Pack argued with Williams and Pope. Williams testified he told Pack to leave his home and Pack said he would be back. Williams stated he later saw Pack in the front yard of his home carrying a gun and then heard shots fired. Williams testified Pack harassed him through phone calls in the hours following the shooting and returned to Williams' home after the shooting and broke a window.

Uncorroborated testimony can support a conviction, *Baltimore v. State*, 878 N.E.2d 253, 258 (Ind. Ct. App. 2007), and it is the role of the factfinder, not the appellate court, to assess witness credibility. *Drane*, 867 N.E.2d at 146. The jury was fully informed about the potential for bias when determining Williams' credibility, which we may not reassess. *Id*. We acknowledge Pack's assertion that Williams' testimony is

insufficient in light of Peete's unchallenged testimony that Thomas fired the shots into Williams' home. But, when presented with conflicting testimony, we "must consider it most favorably to the trial court's ruling." *Id.* The evidence is sufficient to support the conviction.

Affirmed.

CRONE, J., and BROWN, J., concur.