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:

STANLEY L. CAMPBELL
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

JODI KATHRYN STEIN
Deputy Attorney General
Indianapolis, Indiana

FILED
Dec 15 2010, 10:08 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

TILONDA ANNAE THOMAS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A03-1002-CR-97
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0903-FD-246

December 15, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Tilonda Annae Thomas (Thomas), appeals her conviction for residential entry, a Class D felony, Ind. Code § 35-43-2-1.5.

We affirm.

ISSUE

Thomas raises one issue on appeal, which we restate as follows: Whether the State presented sufficient evidence to prove beyond a reasonable doubt that Thomas committed residential entry.

FACTS AND PROCEDURAL HISTORY

On September 30, 2008, Thomas, along with Tyresha Thomas, Lacrueshia Walker, and Shimeka Thomas visited Gwendolyn Rogers' (Rogers) apartment around 10 p.m. One of the women knocked on the door and asked for "Woogie," which is Rogers' nickname. Rogers opened the door a crack, and then the four women outside pushed the door open and began fighting Rogers in her apartment. According to Rogers, the women's hands were "hitting [her] face, [her] arms – whatever they could hit." (Transcript p. 93). Lacrueshia told Rogers that she had "lied on her brother" and "got her brother locked up." (Tr. p. 95). Based on this comment, Rogers interpreted the women's attack as a retaliation for Rogers telling the police four days earlier that Lacrueshia's brother had raped her.

During the fight, Rogers and an eyewitness saw Thomas standing about "a foot inside" or "half way in" the apartment. (Tr. p. 95, 134). Although Rogers cannot remember exactly which women participated in the fight, witnesses heard Thomas state afterwards that

she "tried to break that bitch's toe" and that she "stomped that bitch in her private area, and it should hurt." (Tr. p. 116, 123, 139, 152, 160). After leaving the scene, Thomas warned the others not to say anything to the police about what happened and to tell the police no one was there if asked.

On March 12, 2009, the State filed an Information charging Thomas with Count I, residential entry, a Class D felony, I.C. § 35-43-2-1.5, and Count II, battery, a Class A misdemeanor, I.C. § 35-42-2-1. On December 15, 2009, a jury trial was held. At the close of evidence, the jury found Thomas guilty on Count I, but not on Count II. Subsequently, on January 19, 2010, the trial court sentenced Thomas to two years executed at the Indiana Department of Correction.

Thomas now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

On appeal, Thomas argues that the State failed to provide sufficient evidence that she committed residential entry. The standard of review for a sufficiency of the evidence claim is that a court should only reverse a conviction when reasonable persons would not be able to form inferences as to each material element of the offense. *Perez v. State*, 872 N.E.2d 208, 212-213 (Ind. Ct. App. 2007), *trans. denied.* This court does not reweigh evidence or judge the credibility of witnesses. *Id.* at 213. In addition, this court only considers the evidence most favorable to the verdict and the reasonable inferences stemming from that evidence. *Id.*

To commit residential entry, a person must knowingly or intentionally break and enter the dwelling of another person. I.C. § 35-43-2-1.5. Here, Thomas argues specifically that

the State did not produce any evidence to show that she "broke" into Rogers' apartment. In order to satisfy the "breaking" element of residential entry, the State must introduce evidence from which the jury could reasonably infer that at least slight force was used to gain entry. *McKinney v. State*, 653 N.E.2d 115, 127 (Ind. Ct. App. 1995). This evidence, though, may be entirely circumstantial. *Id.*

Thomas does not dispute that there is evidence she entered Rogers' apartment. Instead, she argues that the State did not introduce evidence that she individually used force to enter the apartment. In making this argument, Thomas ignores Rogers' testimony that all four women pushed against the door. Rogers stated that *four* people rushed her and that "*they* pushed [her] door in." (Tr. p. 92)(emphasis added). When Rogers' statement is viewed in the light most favorable to the trial court's verdict, there is sufficient evidence that reasonable minds could have determined that Thomas was included in the "they" that used force against Rogers' door, and therefore committed residential entry.

CONCLUSION

Based on the foregoing, we conclude that the State presented sufficient evidence to convict Thomas of residential entry.

Affirmed.

KIRSCH, J., and BAILEY, J., concur.