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IN THE
COURT OF APPEALS OF INDIANA

JOHNATHON R. ASLINGER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 27A02-1105-CR-670
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE GRANT SUPERIOR COURT
The Honorable Dana Jo Kenworthy, Judge Pro Tempore
Cause No. 27D02-1103-CM-59

December 29, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Johnathon R. Aslinger appeals his conviction in a bench trial of public intoxication as a class B misdemeanor.[1]

We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

On March 6, 2011, Aslinger met his sister at a pub in Grant County. At some point during the evening, Aslinger began to argue with several of the pub's patrons. A bouncer eventually removed Aslinger from the pub. Aslinger then stood outside and made threatening gestures with a beer bottle. After the bartender called the police, Aslinger walked away from the pub.

Marion Police Department Officer Joshua Price was dispatched to the scene and noticed Aslinger staggering and stumbling down the sidewalk. As Officer Price approached Aslinger, the officer smelled the odor of alcohol emanating from Aslinger's breath. Aslinger's speech was slurred, and he was uncooperative when the officer asked him to take a field sobriety test. A portable breath test indicated the presence of alcohol on Aslinger's breath.

[1] Ind. Code § 7.1-5-1-3.

The trial court convicted Aslinger of public intoxication as a class B misdemeanor and sentenced him to one hundred and eighty days in the Department of Correction. Aslinger appeals his conviction.

DECISION

Aslinger's sole argument is that there is insufficient evidence to support his conviction. Our standard of review for sufficiency of the evidence is well settled. In reviewing a sufficiency of the evidence claim, this court does not reweigh the evidence or judge the credibility of witnesses. *Perez v. State*, 872 N.E.2d 208. 212-13 (Ind. Ct. App. 2007), *trans. denied.* We will consider only the evidence most favorable to the verdict and the reasonable inferences to be drawn therefrom. *Id.* We will affirm the conviction if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. *Id.* Reversal is appropriate only when reasonable persons would not be able to form inferences as to each material element of the offense. *Id.*

A person commits public intoxication as a class B misdemeanor when that person is in a public place in a state of intoxication caused by the person's use of alcohol. Ind. Code § 7.1-5-1-3. Intoxication is defined by statute as being under the influence of alcohol so that there is an impaired condition of thought and action and the loss of normal control of one's faculties. I.C. § 9-13-2-86. Impairment can be established by evidence of (1) consumption of a significant amount of alcohol; (2) impaired attention and reflexes; (3) watery or bloodshot eyes; (4) the odor of alcohol on the breath; (5) unsteady

balance; (6) failure of field sobriety tests; and (7) slurred speech. *Fields v. State*, 888 N.E.2d 304, 307 (Ind. Ct. App. 2008).

Here, Officer Price testified that he could smell the odor of alcohol emanating from Aslinger as he approached him. In addition, Aslinger was uncooperative when the officer asked him to take a field sobriety test, his speech was slurred, and he was unsteady on his feet as he staggered and stumbled down the street. A portable breath test indicated the presence of alcohol on Aslinger's breath. This evidence is sufficient to show that Aslinger was intoxicated. *See Fought v. State*, 898 N.E.2d 447, 450 (Ind. Ct. App. 2008) (finding sufficient evidence to show Fought was intoxicated). Aslinger's arguments that (1) the bouncer testified that Aslinger's speech was not slurred, (2) Aslinger's sister testified that Aslinger was not drunk, and (3) there was no evidence he consumed a large quantity of alcohol are nothing more than invitations for us to reweigh the evidence. This we cannot do. There is sufficient evidence to support Aslinger's conviction.

Affirmed.

BAKER, J., and BAILEY, J., concur.