

Case Summary

Daniel Farris (“Farris”) appeals from his conviction for Invasion of Privacy,¹ as a Class A misdemeanor, raising for our review the single issue of whether there was sufficient evidence to sustain the conviction.

We affirm.

Facts and Procedural History

Around 1:00 a.m. on June 16, 2010, Officer Matthew Musselman (“Officer Musselman”) and his partner, Officer Keith Cutcliff (“Officer Cutcliff”), of the Indianapolis Metropolitan Police Department, responded to a call that an individual had been assaulted at the Best Value Motel. Upon arriving they encountered Deanna Winburn (“Winburn”), who identified herself to the Officers. Winburn appeared to be under the influence of alcohol and bore bruises on her forearms and neck.

Soon after speaking with Winburn, Officers Musselman and Cutcliff next spoke with Farris. Farris claimed that Winburn appeared at his motel room uninvited and that he had requested the motel manager not permit Winburn into his room if she asked him for entry. Nevertheless, Farris eventually did admit Winburn to his room, and the two “began to hang out” for several hours. (Tr. 10.) An argument eventually broke out between Farris and Winburn.

After speaking with Farris and once more with Winburn, Officer Musselman contacted IMPD dispatch to request criminal background information on Farris. Dispatch

¹ See Ind. Code § 35-46-1-15.1.

informed Officer Musselman that Farris was subject to an existing no contact order as to Winburn. Farris was then arrested.

On June 16, 2010, Farris was charged with Invasion of Privacy. On August 4, 2010, a bench trial was conducted, and the trial court took the matter under advisement. On August 12, 2010, the trial court found Farris guilty of the charged offense and entered a judgment of conviction against Farris. Also on that date, Farris was sentenced to 365 days imprisonment, all of which were suspended to probation.

This appeal followed.

Discussion and Decision

Farris was convicted of Invasion of Privacy and now challenges the sufficiency of the evidence for conviction after a bench trial. Our standard of review in such situations is well established. When reviewing a claim of insufficient evidence, we affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. Robertson v. State, 765 N.E.2d 138, 139 (Ind. 2002). We consider only the evidence and reasonable inferences favorable to the judgment, and neither reweigh evidence nor judge the credibility of the witnesses. Id.

To convict Farris of Invasion of Privacy, the State was required to prove beyond a reasonable doubt that Farris knowingly violated a no contact order issued as a condition of probation that was issued to protect Winburn and that prohibited any contact with Winburn, any battering of Winburn, or being in Winburn's presence. Ind. Code 35-46-1-15.1(6); App. 16.

Farris first contends that there is insufficient evidence to establish that he knowingly violated the no contact order. Officer Musselman testified that Farris told him that he initially resisted allowing Winburn into his hotel room, but eventually permitted her in. They “began to hang out” for several hours (Tr. 10), an argument ensued, and property in the hotel room was damaged. Officer Musselman further testified that when he first encountered Winburn, she had bruises on her forearms and neck, which tends to corroborate Farris’s admission that he had an argument with Winburn. There is no evidence that suggests that Farris did not know he was subject to the no contact order, and there is no evidence that he did not know that it was Winburn who was present that night. There is thus sufficient evidence that Winburn knowingly violated the no contact order.

Farris also contests the sufficiency of the identification of the individual who spoke to Officer Musselman that night as Winburn. Specifically, Farris contends that because Officer Musselman identified Winburn from a photograph and Winburn herself did not testify at the trial, there was insufficient evidence connecting the person police encountered with the Winburn protected by the no contact order. Officer Musselman testified that, at the motel, Winburn presented him with a state identification card bearing her name and photograph. He then confirmed that the person he encountered and who identified herself as Deanna Winburn that night was the same individual depicted in the booking photograph presented as State’s Exhibit 3, which photograph also bore the name Deanna Winburn. The name of the individual protected by the no contact order is, in turn, Deanna Winburn, bearing the same name as the individual whom police encountered on June 16, 2006, at the same motel as

Farris and whom Farris admitted to police he had encountered, spent time with, and eventually argued with. The evidence and inferences favorable to the judgment are thus sufficient to support the trial court's determination that the Deanna Winburn of the no contact order and the Deanna Winburn encountered on June 16, 2006, are the same individual.

Farris's argument largely requests that we reweigh evidence and second guess inferences made from the evidence. This we will not do. Robertson, 765 N.E.2d at 139. Farris's argument that there was insufficient evidence to support the judgment therefore fails.

Affirmed.

FRIEDLANDER, J., and BROWN, J., concur.