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ATTORNEY FOR APPELLANT:

TERRANCE L. KINNARD

Kinnard Law Office
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER

Attorney General of Indiana

GEORGE P. SHERMAN

Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

EARL MOODY,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A05-0609-CR-530

APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Evan Goodman, Judge

Cause No. 49F15-0506-FD-99707

July 23, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Earl Moody (“Moody”) appeals his conviction for escape as a Class D felony claiming that the trial court erred in denying his motion for a directed verdict because insufficient evidence exists to support a finding that he knowingly or intentionally violated his home detention order. Specifically, he argues that the State failed to prove that he knowingly or intentionally violated his home detention order because the State did not introduce into evidence his actual home detention order. Finding that sufficient evidence exists to show that Moody knowingly or intentionally violated his home detention order, we affirm the judgment of the trial court.¹

Facts and Procedural History

In June 2004, Marion Superior Court 4 ordered Moody to home detention. Moody read, initialed, and signed a Marion County Community Corrections Home Detention Contract (“Home Detention Contract”) that provided, in pertinent part:

1. YOU SHALL be confined **inside** (within the walls of your residence: front door to back door) your HOME at all times except when:
 - A. Working or traveling directly to and from **approved** employment; All employment must have a schedule with a fixed location.

State’s Ex. 1. Additionally, Moody’s Home Detention Contract provided “You were ordered to serve a term of Home Detention under the above stated cause number.” *Id.*

¹ We direct Moody’s counsel to Indiana Appellate Rules 50(C) and 51(C) for an explanation on how to properly prepare an Appendix on appeal. Rule 50(C) provides, in pertinent part, “The table of contents shall specifically identify each item contained in the Appendix, including the item’s date.” Moody’s Appendix contains two documents, “State’s Motion in Limine” and a “Motion to Fingerprint Defendant,” that are not identified in the Table of Contents. Moreover, the Table of Contents references multiple orders, motions, and documents that are not included within the Appendix. Additionally, the Appendix is not numbered. Indiana Appellate Rule 51(C) requires, “All pages of the Appendix shall be numbered at the bottom consecutively, without obscuring the Transcript page numbers, regardless of the number of volumes the Appendix requires.”

On the evening of June 10, 2005, Indianapolis Police Department Officer Scott Wolfe (“Officer Wolfe”) observed Moody standing and talking with a group of individuals in front of a house in the 3500 block of North Station Avenue. Officer Wolfe recognized Moody, and after confirming that he did not live in the 3500 block of North Station Avenue and that he was still under a home detention order, arrested Moody. Thereafter, the State charged Moody with Escape as a Class D felony.²

At trial, the State introduced into evidence the Home Detention Contract but did not introduce the actual home detention order. However, both parties stipulated that “[Moody] was placed on home detention by Marion Superior Court Four . . . and by implication that he was on home detention at the time of this alleged crime.” Tr. p. 44. At the close of the State’s case-in-chief, counsel for Moody made an oral motion requesting a directed verdict claiming the State failed to prove that he knowingly or intentionally violated his home detention order because the State did not introduce into evidence his home detention order. The trial court denied this motion and, thereafter, the jury found Moody guilty as charged. Moody now appeals.

Discussion and Decision

Moody contends that the trial court erred in denying his motion for a directed verdict because insufficient evidence exists to show that he knowingly or intentionally violated his home detention order. The denial of a motion for a directed verdict cannot be in error if the evidence is sufficient to support a conviction on appeal. *Hibbard v. State*, 858 N.E.2d 255 (Ind. Ct. App. 2006). Our standard of review for sufficiency of the

² Ind. Code § 35-44-3-5(b).

evidence is well settled. “Upon a challenge to the sufficiency of evidence to support a conviction, a reviewing court does not reweigh the evidence or judge the credibility of the witnesses, and respects the jury’s exclusive province to weigh conflicting evidence.” *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We must consider only the probative evidence and reasonable inferences supporting the verdict. *Id.* We must affirm if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id.*

Moody argues that the State failed to prove the elements of escape under Indiana Code § 35-44-3-5(b), which provides, in pertinent part, “A person who knowingly or intentionally violates a home detention order . . . commits escape, a Class D felony.” In particular, he argues that because the State only introduced his Home Detention Contract into evidence, and not the actual home detention *order*, insufficient evidence exists to support his conviction. We disagree.

Moody stipulated at trial that “[he] was placed on home detention by Marion Superior Court Four . . . and by implication that he was on home detention at the time of this alleged crime.” Tr. p. 44. He, therefore, stipulated to the fact that the home detention order existed. Additionally, Moody’s Home Detention Contract provided, “You were ordered to serve a term of Home Detention under the above stated cause number.” State’s Ex. 1. It is abundantly clear that Moody was ordered to home detention. Furthermore, the evidence adduced at trial showed that Officer Wolfe arrested Moody while he was standing and conversing with a group of people at a location that was not his home or

place of employment. This is a violation of condition 1(A) of his Home Detention Contract. We find the evidence is sufficient for the trial court to have denied Moody's motion for a directed verdict and permitted the jury to decide whether Moody knowingly or intentionally violated his home detention order. Moody's argument to the contrary amounts to an invitation to reweigh the evidence, which we will not do. The evidence is sufficient to support Moody's conviction.³

Affirmed.

SULLIVAN, J., and ROBB, J., concur.

³ Moody also argues that his constitutional right to challenge the evidence against him was violated because the State did not introduce into evidence the actual home detention order referencing the home detention statute. This argument mirrors his first argument but frames it as a constitutional violation. Nevertheless, because he fails to specify which constitutional provision the State violated and does not offer any supporting authority in furtherance of this argument, he has waived our review of it on appeal. *See* Ind. Appellate Rule 46(8)(a). Waiver notwithstanding, we cannot say that the State's failure to introduce the actual home detention order into evidence rises to the level of a constitutional violation because other evidence sufficiently established the terms of that order.