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**IN THE
COURT OF APPEALS OF INDIANA**

ENRI FRANKLIN,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0703-CR-261

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Heather Welch, Judge
Cause No. 49G01-0611-FD-213887

October 12, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Enri Franklin appeals his conviction for criminal recklessness, a class D felony. We affirm.

Issue

The issue is whether the State presented evidence sufficient to sustain Franklin's conviction.

Facts and Procedural History

The facts most favorable to the judgment indicate that on the night of November 4, 2006, Indianapolis Metropolitan Police Officer Andrew Spalding was called to the scene of an incident near 38th Street and German Church Road in Indianapolis. Upon the officer's arrival, Bryan Francolis summoned him to a parked van, indicating that his friend, Mario Moon, had been shot and was inside the van. Franklin was also inside the van. Officer Spalding spoke to Moon and determined that he had sustained a gunshot wound to the knee. Moon then told Officer Spalding that Franklin had shot him. Following this conversation, Officer Spalding detained Franklin and advised him of his rights. Franklin told the officer that he had been sitting in the van with friends and had picked up a handgun that was inside the van. He then cocked the gun and was told by one of his friends that it was not loaded. As he turned toward the rear of the van, the gun discharged and Moon was shot. It was dark inside the van, and Franklin had been smoking marijuana.

The State charged Franklin with class D felony criminal recklessness, pointing a firearm, and carrying a handgun without a license. On February 15, 2007, the trial court

found Franklin guilty of criminal recklessness and carrying a handgun without a license. Franklin appeals his criminal recklessness conviction.

Discussion and Decision

Franklin contends that the State failed to prove he committed class D criminal recklessness.

When examining sufficiency of evidence, we neither reweigh the evidence nor resolve questions of credibility. Rather, we consider only the evidence most favorable to the judgment together with all reasonable inferences to be drawn from that evidence. We affirm if there is substantial evidence of probative value from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt.

Purvis v. State, 829 N.E.2d 572, 587 (Ind. Ct. App. 2005) (citations omitted) *trans. denied, cert denied*.

Franklin alleges that the evidence failed to show he acted recklessly in handling the handgun. Indiana Code Section 35-41-2-2(c) states that a person acts “recklessly” if he engages in conduct “in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct.” The evidence and inferences most favorable to the judgment indicate that Franklin, while smoking marijuana in a dark van, cocked and fired a handgun, injuring Moon. This evidence is sufficient to support the trial court’s finding that Franklin acted recklessly. Franklin’s arguments to the contrary are merely invitations to reweigh the evidence and resolve questions of credibility in his favor, which we may not do.

Affirmed.

DARDEN, J., and MAY, J., concur.