

STATEMENT OF THE CASE

Defendant-Appellant Marlon Bell (“Bell”) is appealing his conviction after a bench trial of the Class B felony of attempted carjacking.

We affirm.

ISSUE

Bell’s statement of the issue is that the trial court abused its discretion and committed reversible error by convicting Bell of attempted carjacking without sufficient evidence.

FACTS

The victim, who was eight months pregnant, went through the drive-thru lane of a fast food restaurant and purchased her lunch. She pulled through the exit lane and checked to see if traffic would permit her to enter the highway. Her window was down as she looked and then turned back to find Bell leaning in her window. Bell screamed and cursed telling the victim to exit the car. The victim accelerated, placed a 911 call and informed the dispatcher of the incident. Bell was described as a black man wearing a navy and gray shirt. A police officer responded by going to the drive-thru where he saw Bell. The victim was brought to the scene and identified Bell as the perpetrator.

At the bench trial both sides waived opening arguments, the State presented its case-in-chief and Bell rested without presenting evidence.

Additional facts will be added as needed.

DISCUSSION AND DECISION

Bell argues that the court convicted Bell of attempted carjacking based solely on the statements of the victim, who was the driver of the car. Bell contends that the evidence did

not show that he intended to take the vehicle, and that the evidence does not show that Bell “lunged” into the car as charged in the affidavit.

When considering a challenge to the sufficiency of the evidence to support a conviction, we respect the fact-finder’s exclusive province to weigh conflicting evidence, and therefore, we neither reweigh the evidence nor judge witness credibility. *Gleaves v. State*, 859 N.E.2d 766, 769 (Ind. Ct. App. 2007). We consider only the probative evidence and reasonable inferences supporting the verdict, and 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.* The uncorroborated testimony of one witness may be sufficient by itself to sustain a conviction. *Id.*

Ind. Code §35-42-5-2 defines carjacking as when the defendant knowingly or intentionally takes a motor vehicle from another person by using or threatening to use force on any person or by putting any person in fear. Attempt is defined in Ind. Code §35-41-5-1, which says that a person attempts to commit a crime when, acting with the culpability required for commission of the crime, engages in conduct that constitutes a substantial step toward the commission of the crime.

The charging information alleges:

Marlon Bell, on or about June 1, 2006, did knowingly or intentionally attempt to commit Carjacking, which is to take a motor vehicle, specifically a GMC Jimmy SUV, from another person, that is Amy Daniels, by putting Amy Daniels in fear; by engaging in conduct that constitutes a substantial step toward the commission of Carjacking, specifically: ordering Amy Daniels to get out of her vehicle and/or lunging into the interior of her vehicle.

Bell says the evidence is subject to conflicting inferences.

Triers of fact determine not only the facts presented to them and their credibility, but any reasonable inferences from facts established either by direct or circumstantial evidence. It is not necessary that the court find the circumstantial evidence excludes every reasonable hypothesis of innocence. It need only be demonstrated that inferences may reasonably be drawn which support the finding of guilt.

Brink v. State, 837 N.E.2d 192, 197 (Ind. Ct. App. 2005).

The evidence and the inferences which can reasonably be drawn therefrom show that Bell attempted to take a motor vehicle from Amy Daniels by placing her in fear by ordering her to get out of the vehicle. That evidence was proven beyond a reasonable doubt, and as a result, the evidence is sufficient to support the judgment.

Bell's reply brief raises questions that were not presented to the trial court. As a general rule, a party may not present an argument or issue to an appellate court unless the party raised the same argument or issue before the trial court. *Crafton v. State*, 821 N.E.2d 907, 912 (Ind. Ct. App. 2005). Since Bell did not present the same argument or issues to the trial court they are waived.

CONCLUSION

The evidence is sufficient to support the judgment. Affirmed.

FRIEDLANDER, J., and NAJAM, J., concur.