

STATEMENT OF THE CASE

Gene Payton appeals his conviction, following a jury trial, for operating a motor vehicle while privileges are forfeited for life, a class C felony.

We affirm.

ISSUE

Whether sufficient evidence supports Payton's conviction.

FACTS

The facts most favorable to the judgment reveal that, in December 2009, Payton was an inmate at a work release facility in Elkhart County. Payton was an habitual traffic violator whose driving privileges had been suspended for life, and he was aware of that suspension. On December 30, 2009, around 5:00 p.m., John Bell, who was a corrections officer at the work release facility, was outside on a break when he saw Payton drive a pick-up truck into the work release facility's parking lot. Payton started to park in the inmate parking section, but then he backed out and drove out of the parking lot when he saw Officer Bell. Officer Bell watched Payton drive away and then went in the work release facility to report what he had seen to his supervisor.

Officer Shannon Stanfill went to the work release facility around 5:25 p.m. to speak with Payton, who had already returned to the facility. When the officer questioned Payton, he denied that he had been driving. Payton told the officer that his mother and sister had picked him up from work and dropped him off a few blocks from the work release facility and that he walked the rest of the way to the facility. When the officer asked Payton for his mother's phone number so he could call Payton's mother to verify

his story, Payton refused to give the number but stated that he would call his mother and talk to her first before the officer would be allowed to speak with her. After the officer indicated that he needed to speak with Payton's mother before Payton, Payton refused to let the officer call his mother. Officer Stanfill later found the truck parked four or five blocks from the work release facility and determined that the truck belonged to one of Payton's roommates at the work release facility.

The State charged Payton with operating a motor vehicle while privileges are forfeited for life, a class C felony. Payton filed a notice of alibi prior to his March 2010 jury trial. At trial, Payton's mother and sister testified that they had picked up Payton from work and dropped him off a few blocks from the work release facility. The jury found Payton guilty as charged, and the trial court sentenced Payton to the Indiana Department of Correction for six years with two years suspended.

DECISION

Payton argues that the evidence was insufficient to support his conviction.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences *supporting* the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted).

To convict Payton of class C felony operating a motor vehicle while privileges are forfeited for life as charged, the State was required to prove beyond a reasonable doubt that Payton “did operate a vehicle after knowing his driving privileges had been forfeited for life as a result of having been adjudged an Habitual Traffic Offender[.]” *See* App. 33; *see also* Ind. Code § 9-30-10-17 (providing that “[a] person who operates a motor vehicle after the person’s driving privileges are forfeited for life under section 16 of this chapter . . . commits a Class C felony”).

At trial, Payton stipulated to the fact that he was an habitual traffic offender whose driving privileges were suspended for life and that he knew he was a habitual traffic offender whose driving privileges were suspended for life. On appeal, Payton argues the evidence was insufficient because “only one witness [Officer Bell] identified Payton as the driver, [and] this identification was not corroborated by any other evidence.” Payton’s Br. at 2.

Here, Officer Bell testified that he had known Payton for fourteen to eighteen months while Payton was an inmate of the work release facility and that he knew Payton was an habitual traffic violator. Officer Bell also testified that it was light and clear outside when Payton “drove right in front of [him.]” (Tr. 146). Officer Bell indicated that Payton was eight to twelve feet in front of him when he saw Payton’s face and that “it was pretty easy to recognize him . . . [a]s long as he’d been there and as much as [Officer Bell] had worked around him.” (Tr. 147). Additionally, Officer Bell testified that Payton started to park, looked at Officer Bell, and then turned the truck around and drove out the other parking lot entrance.

Officer Bell's testimony alone is sufficient to sustain the conviction. *See Stewart v. State*, 866 N.E.2d 858, 862 (Ind. Ct. App. 2007) (holding that the eyewitness testimony of a single witness is sufficient to sustain a conviction). Additionally, there was evidence presented that the truck belonged to one of Payton's roommates at the work release facility and that Payton had access to the keys. Based on the evidence presented, a reasonable jury could have concluded that Payton was driving the truck. Payton's argument is nothing more than a request to reweigh the evidence and reassess the credibility of the witnesses, which we cannot do. Accordingly, we conclude there is sufficient evidence to support Payton's conviction. *See e.g., Carpenter v. State*, 743 N.E.2d 326, 328, 330-31 (Ind. Ct. App. 2001), (affirming a defendant's conviction for operating a vehicle while his license was suspended as an habitual traffic violator where a sole eyewitness, who knew the defendant, testified that he was close to the street when he saw the defendant drive by him but where the defendant's relatives testified that the defendant was not driving the car), *trans. denied; see also Fonner v. State*, 876 N.E.2d 340, 343 (Ind. Ct. App. 2007) (holding that an officer's testimony was sufficient to prove that the defendant was driving when his license had been forfeited for life).

Affirmed.

BRADFORD, J., and BROWN, J., concur.