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**IN THE
COURT OF APPEALS OF INDIANA**

CHRISTOPHER CULBREATH,)

Appellant-Defendant,)

vs.)

STATE OF INDIANA,)

Appellee-Plaintiff.)

No. 20A04-0705-CR-244

APPEAL FROM THE ELKHART SUPERIOR COURT
The Honorable David Bonfiglio, Judge
Cause No. 20D06-0508-FD-839

October 30, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Christopher Culbreath (“Culbreath”) appeals his conviction for Possession of Paraphernalia, as a Class D felony.¹ We affirm.

Issue

Culbreath raises one issue for appeal, which we restate as whether there was sufficient evidence presented that he had a prior unrelated conviction for Possession of Paraphernalia to support the elevation of his Class A misdemeanor offense to a Class D felony.

Facts and Procedural History

On August 30, 2006, Officer Jack Oldroyd (“Officer Oldroyd”) observed Culbreath engaged in what he suspected to be a drug transaction, so he pursued Culbreath until he was able to apprehend him. Officer Oldroyd placed Culbreath in handcuffs and opened Culbreath’s left hand, which exposed a crack pipe wrapped in white tissue. Consequently, Officer Oldroyd placed Culbreath under arrest. The State charged Culbreath with Possession of Paraphernalia, both as a Class A misdemeanor and as a Class D felony.

Culbreath was tried in absentia on June 5, 2006. The public defender appointed to Culbreath had withdrawn prior to trial, so counsel did not represent him. Officer Oldroyd testified as to the circumstances surrounding Culbreath’s arrest as well as Culbreath’s date of birth and social security number. The jury found Culbreath guilty of Possession of Paraphernalia as a Class A misdemeanor in a bifurcated trial. In the second phase, the State called Theresa Cox (“Cox”), the First Deputy at the Elkhart City Clerk’s Office, to present evidence to support the elevation of the misdemeanor offense to a Class D felony. Cox

presented a certified chronological case summary (“CCS”) as evidence that Culbreath was formerly convicted of Possession of Paraphernalia on March 22, 2005. Cox explained elements of the CCS; she also explained a clerical error in the social security number of Culbreath, resulting in an extra zero being placed in front of his social security number. The jury found that Culbreath had a previous conviction for Possession of Paraphernalia. The trial court convicted Culbreath for Possession of Paraphernalia as a Class D felony.

Culbreath now appeals.

Discussion and Decision

Culbreath argues there was insufficient evidence for the jury to find that he had a previous conviction for Possession of Paraphernalia. The standard for reviewing a sufficiency of the evidence claim is well settled. “We will neither reweigh the evidence nor judge the credibility of witnesses.” Tobar v. State, 740 N.E.2d 109, 111 (Ind. 2000). Rather, “[w]e will affirm the trial court 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. at 111-12.

In regard to using documents to prove prior convictions, the commission of the offense may be proven by use of certified copies of judgments or commitments containing a defendant’s name or a similar name. Tyson v. State, 766 N.E.2d 715, 718 (Ind. 2002). “While there must be supporting evidence to identify the defendant as the person named in the documents, the evidence may be circumstantial.” Id. If the evidence yields logical and reasonable inferences from which the finder of fact may determine beyond a reasonable

¹ Ind. Code § 35-48-4-8.3(b).

doubt that it was the defendant, there is sufficient evidence to sustain the conviction. Pointer v. State, 499 N.E.2d 1087, 1089 (Ind. 1986).

Culbreath argues that a CCS offered as proof of a prior conviction is not sufficient to support a finding by the jury that he was indeed convicted of the offense. However, Culbreath uses a case that is in fact contrary to his position. See Abdullah v. State, 847 N.E.2d 1031 (Ind. Ct. App. 2006). Although the conviction was overturned in Abdullah based on the State only admitting an unsigned abstract of judgment to prove a prior conviction, this Court noted that prosecutors routinely use a variety of available evidence to prove a prior conviction, including a CCS. Id. at 1035. Moreover, Indiana Trial Rule 77(B) states that a CCS is an “official record of the court.” T.R. 77(B). Therefore, a CCS is sufficient to establish that a defendant has a prior conviction.

The CCS presented in this case included a name, date of birth, and social security number. The name and date of birth matched the information identifying Culbreath provided by Officer Oldroyd in the first phase of the trial. Cox testified to a clerical error resulting in an extra zero in front of the social security number given in the CCS. Excluding this error, the social security number in the CCS matched the social security number Officer Oldroyd provided to identify Culbreath. Based upon this evidence, the jury could have reasonably inferred that Culbreath was the same person who had a previous conviction for Possession of Paraphernalia on March 22, 2005.

Conclusion

There was sufficient evidence presented at trial that Culbreath had a prior unrelated conviction for Possession of Paraphernalia to support the elevation of his Class A misdemeanor offense to a Class D felony.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.