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**IN THE
COURT OF APPEALS OF INDIANA**

DONTAE SELLARS,)
)
Appellant-Defendant,)
)
vs.) No. 49A02-0704-CR-302
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Reuben Hill, Judge
Cause No. 49F18-0607-CM-136286

October 31, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Dontae Sellars appeals his conviction for Class A misdemeanor resisting law enforcement. We affirm.

Issue

Sellars raises one issue, which we restate as whether there is sufficient evidence to support his conviction.

Facts

On the afternoon of July 24, 2006, Marion County Sheriff's Deputy Walter Hendricks received a dispatch of shots fired from a white Grand Prix with handicapped license plates near the intersection of West 10th Street and North High School Road in Indianapolis. Deputy Hendricks encountered a vehicle matching that description near West 10th Street and Vinewood Avenue. Deputy Hendricks, who was driving a marked Marion County Sheriff's vehicle, activated his red lights and siren in an attempt to stop the Grand Prix. The vehicle did not stop, and a chase ensued. Deputy Hendricks lost sight of the car but found it abandoned on Buick Drive.

Deputy Hendricks described the two front seat occupants as wearing white shirts and the back-seat passenger as wearing a "dark colored shirt." Tr. p. 28. All three occupants were "black males." Tr. p. 9. A perimeter was set up in the area, and the assistance of a canine unit was requested.

Corporal John Archer, a canine unit officer with the Marion County Sheriff's Department, responded to the request for assistance. When Corporal Archer arrived on the scene, a witness indicated that she had seen a black male run southbound through the

neighborhood. Approximately two blocks away, the canine working with Corporal Archer alerted him to human scent. Corporal Archer observed Sellars hiding behind a barn and “peeking out” from behind it. Tr. p. 21. Corporal Archer apprehended Sellars. Two other black males were also apprehended in connection with the incident.

On July 26, 2006, the State charged Sellars with Class A misdemeanor resisting law enforcement. After a bench trial, Sellars was found guilty as charged. Sellars now appeals.

Analysis

Sellars argues that there is insufficient evidence to support his conviction. “In addressing a claim of insufficient evidence, an appellate court considers only the probative evidence and reasonable inferences supporting the judgment to assess whether a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt.” Brown v. State, 868 N.E.2d 464, 470 (Ind. 2007). In reviewing a claim of insufficient evidence we neither reweigh the evidence nor judge witness credibility. Prickett v. State, 856 N.E.2d 1203, 1206 (Ind. 2006). “When a conviction is based on circumstantial evidence, we will not disturb the verdict if the factfinder could reasonably infer from the evidence presented that the defendant is guilty beyond a reasonable doubt.” Weaver v. State, 845 N.E.2d 1066, 1069 (Ind. Ct. App. 2006), trans. denied. “We need not find the circumstantial evidence overcomes every reasonable hypothesis of innocence; rather, there must merely be a reasonable inference from the evidence supporting the verdict for us to find the evidence sufficient.” Id.

A person commits Class A misdemeanor resisting law enforcement if he or she knowingly or intentionally flees from a law enforcement officer after the officer has, by visual or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop. Ind. Code § 35-44-3-3(a)(3). Sellars argues that there is insufficient evidence to support his conviction because neither officer identified him as a passenger of the Grand Prix and no one saw him running from the Grand Prix.

The evidence established that shots were allegedly fired from a white Grand Prix with handicapped license plates. Deputy Hendricks observed a vehicle matching that description occupied by two black men in light colored shirts in the front seat and a black man in a dark shirt in the back seat. Deputy Hendricks attempted to stop the vehicle by activating a siren and emergency lights. A chase ensued, and when Deputy Hendricks found the car it was abandoned.

Corporal Archer testified that as a canine officer for fourteen years he had received extensive training regarding working with canines. He explained, "when someone is running from the police, hiding, they sweat, they put out what we call fear scent, they're [sic] adrenalin is going and that's what the dogs learn in training, they learn smells." Tr. p 18. Corporal Archer testified that approximately two blocks from the abandoned vehicle, the dog alerted him to human sent and led him to Sellars, who was hiding behind a barn. Corporal Archer also testified that when he approached Sellars, Sellars said, "oh, you got me, please don't put that dog on me" Id. at 22. Sellars, a black man, was wearing a light colored shirt. Two other black men, one wearing a light

colored shirt and one wearing a dark colored shirt were also apprehended in the vicinity of the abandoned Grand Prix.

It was for the trial court to assign the appropriate weight to Deputy Hendrick's and Corporal Archer's trial testimony. Based on this evidence, the trial court could reasonably infer that that Sellars was an occupant of the car.

Sellars also claims, "The State's rather tenuous theory is that a person must stay with a vehicle driven by another when the vehicle is eventually stopped and wait for the police to arrive on the scene. This certainly does not meet the requirements of the statute." Appellant's Br. p. 4. This argument is not well developed, and we nevertheless we disagree with Sellars's assertion.

Here, Deputy Hendricks activated his siren and emergency lights in an effort to stop the Grand Prix, a chase ensued, and he found the car abandoned. Sellars was eventually apprehended approximately two blocks from the abandoned vehicle hiding behind a barn. That Sellars was not the driver of the car does not obviate the necessity that he, as a passenger, follow Deputy Hendrick's command to stop at the earliest reasonable opportunity. There is sufficient evidence that Sellars knowingly fled from a law enforcement officer's command to stop.

Conclusion

There is sufficient evidence to support Sellars's conviction. We affirm.

Affirmed.

KIRSCH, J., and ROBB, J., concur.