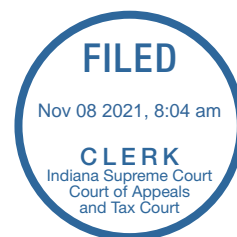


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Lakeisha Ann Tillman,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

November 8, 2021

Court of Appeals Case No.  
21A-CR-1031

Appeal from the Hamilton  
Superior Court

The Honorable David K. Najjar,  
Judge

Trial Court Cause No.  
29D05-2010-CM-6477

**Crone, Judge.**

## Case Summary

- [1] Lakeisha Ann Tillman appeals her conviction for class A misdemeanor cruelty to an animal, arguing that the evidence is insufficient to establish that she abandoned her dog. Finding the evidence sufficient, we affirm.

## Facts and Procedural History

- [2] Around 7:30 a.m. on August 28, 2020, Hamilton County Humane Society facilities manager Aislinn Lowery went behind the agency's building to see whether the garbage dumpster had been emptied. She opened the garage door, and the first thing she saw in the area immediately behind the building were two garbage bags on two chairs, which she thought was odd. Lowery checked the dumpster, and as she turned to go back in the garage, she saw a black mesh pet carrier with a dog in it on the ground behind one of the chairs. The mesh carrier was not much bigger than the dog. Lowery noticed an empty red bowl in the carrier. Inside a zippered pouch in the carrier was a vaccination record from the Low Cost Spay/Neuter Clinic that showed that the dog's name was Bella. There was also a piece of paper dated "8/27" that read, "Found this dog by 12875 old glory fishers chained to pole for days. I tried to care for her but I live in Apartments. And was fined. I had her 2 wks. I have to get rid of her. Not sure who original owner is." State's Ex. 6. One of the garbage bags contained two dog beds, and the other contained food and dog toys.
- [3] Bella was examined by a Board of Animal Health veterinarian, who concluded that Bella was in reasonable condition. The veterinarian found that Bella was

within a healthy weight range, her nails were an acceptable length, her ears were clean, and her teeth had a moderate amount of tartar buildup. However, the veterinarian was concerned that Bella was found next to a dumpster where there was no shade, the temperature that morning was in the high 70s/low 80s with the humidity above 70%, there was no food or water in the carrier, and no one at the Humane Society had been notified of the dog's location. The veterinarian concluded that under these circumstances, "[t]here would have been a great risk that that dog would have become overheated and could have suffered severe consequences, including death." Tr. Vol. 2 at 45.

- [4] The State charged Tillman with class A misdemeanor cruelty to an animal. At her bench trial, Tillman stipulated that Bella was her dog. Tillman was convicted and sentenced to 365 days suspended with 180 days of probation and twenty hours of community service. Tillman appeals.

## **Discussion and Decision**

- [5] In reviewing a claim of insufficient evidence, we do not reweigh the evidence or judge the credibility of witnesses, and we consider only the evidence that supports the judgment and the reasonable inferences arising therefrom. *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009). It is "not necessary that the evidence 'overcome every reasonable hypothesis of innocence.'" *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)). "We will affirm if there is substantial evidence of probative value such

that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt.” *Bailey*, 907 N.E.2d at 1005.

[6] To convict Tillman of class A misdemeanor cruelty to an animal, the State was required to prove beyond a reasonable doubt that she had a vertebrate animal in her custody and recklessly, knowingly, or intentionally abandoned or neglected the animal. Ind. Code § 35-46-3-7. Tillman’s sole challenge to her conviction is that the evidence was insufficient to show that she abandoned her dog when she left it at the Humane Society. “‘Abandon’ means to desert an animal or to leave the animal without making provision for adequate long term care of the animal.” Ind. Code § 35-46-3-0.5(1).

[7] Tillman contends that she did not abandon Bella because she left Bella at a place that cares for animals, in a secure carrier, with vaccination records and two bags of pet-care items, and Bella was in good condition when she was examined by the veterinarian. According to Tillman, the State failed to present evidence as to how long Bella was left unattended or when food and/or water had last been placed in her bowl or when Bella had consumed it, and therefore the State failed to prove beyond a reasonable doubt that she did not make provision for Bella’s adequate long term care. Appellant’s Br. at 8.

[8] The evidence shows that although Tillman left Bella at a place that cares for animals, Tillman left her there in circumstances that did not adequately provide for Bella’s safe survival. Tillman left Bella behind the Humane Society in an area that was not frequently visited by staff. Bella was in a small black carrier in

an area with no shade and was without food or water at the start of a hot and humid August day, creating a significant risk that Bella would overheat and suffer severe consequences including death. Although Lowery discovered Bella early in the morning, Lowery did not usually go out to the dumpsters in the mornings. As the State puts it, “Bella’s long-term care relied on the mere happenstance of someone from the Humane Society finding the dog.”

Appellee’s Br. at 10. Tillman’s argument is merely a request to reweigh the evidence, which we must decline. We conclude that the evidence is sufficient to prove that Tillman abandoned her dog and therefore affirm her conviction.

[9] Affirmed.

Bailey, J., and Pyle, J., concur.