

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ryan Gibbs,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 21, 2023

Court of Appeals Case No.
22A-CR-2673

Appeal from the Hendricks
Superior Court

The Honorable Stephenie LeMay-
Luken, Judge

Trial Court Cause No.
32D05-2112-CM-1372

Memorandum Decision by Judge Bradford
Judges May and Mathias concur.

Bradford, Judge.

Case Summary

- [1] Ryan Gibbs and his ex-wife, Jessica Stoebick, had a contentious relationship, which resulted in Stoebick obtaining a protective order against Gibbs. At the end of October of 2021, Gibbs violated the protective order by contacting Stoebick and by going to her home in the middle of the night. Gibbs was subsequently charged with and convicted of one count of Class A misdemeanor invasion of privacy. Gibbs challenges the sufficiency of the evidence to sustain his conviction. We affirm.

Facts and Procedural History

- [2] Gibbs and Stoebick were married from 2015 until 2021. Their relationship was contentious throughout their marriage, with Stoebick leaving “just after Thanksgiving, November of 2020.” Tr. Vol. II p. 7. Gibbs filed for divorce in December of 2020. Their relationship worsened during the divorce proceedings, resulting in Stoebick requesting a protective order against Gibbs. In February of 2021, the Hendricks Superior Court issued a protective order. When the first protective order was about to expire, on August 18, 2021, a second protective order was issued which continued to protect Stoebick from Gibbs until February 24, 2023. The protective order prohibited Gibbs from “harassing, annoying, telephoning, contacting, or directly or indirectly communicating” with Stoebick. State’s Ex. 1. It also required Gibbs to stay away from Stoebick’s home. Gibbs was served with the protective order via

personal service on August 20, 2021. Stoebick had no ongoing quarrels or feuds with anyone in her life other than Gibbs.

[3] On October 26, 2021, Stoebick received a text from an unknown number that said, “Why?” Tr. Vol. II p. 8. She did not respond. The next morning, Stoebick received a phone call from the same unknown number. Stoebick answered and said, “Hello?” Tr. Vol. II p. 8. At first there was no response but when the caller responded, Stoebick recognized the voice that replied as belonging to Gibbs. Stoebick asked Gibbs what he wanted, and he said that he “just want[ed] all of this to stop.” Tr. Vol. II p. 9. Stoebick responded by telling Gibbs “then f[***]ing stop” before hanging up. Tr. Vol. II p. 9. A few minutes later, Stoebick received a text from the same unknown number asking her to call him. Stoebick did not respond to this text.

[4] During the “very earliest hours of” October 31, 2021, Stoebick was awakened when she “heard something.” Tr. Vol. II p. 12. After verifying that “everything on [her] security system, all of the alarms were still ... on and intact ... that the security system was armed and that all of the windows and doors were still closed,” Stoebick went back to sleep. Tr. Vol. II p. 12. The next morning, Stoebick reviewed the camera footage from her security system and observed that Gibbs had been outside of her house during the night. Specifically, she observed a man, whom she recognized to be Gibbs, walking “down the length of [her] driveway” and into her yard. Tr. Vol. II p. 15. Stoebick also reviewed surveillance footage from her neighbor for the same time frame that night and observed that Gibbs had been “pacing back and forth in

front of [her] house and looking at [her] house.” Tr. Vol. II p. 18. Stoebick recognized Gibbs from the way he walks, noting that Gibbs had previously had back surgery after which he “walk[ed] in a certain way.” Tr. Vol. II p. 16. Stoebick also recognized the sweatshirt that Gibbs had been wearing as matching one that had belonged to Gibbs.

[5] Later that morning, Stoebick received a text message from the same number that Gibbs had called from a few days earlier that said, “Happy Halloween, Little Love.” Tr. Vol. II p. 19. Stoebick recognized the message as having come from Gibbs because he had called her “Little Love” as a “pet name” when they were together. Tr. Vol. II p. 20.

[6] On December 13, 2021, the State charged Gibbs with one count of Class A misdemeanor invasion of privacy. The trial court concluded a bench trial on October 13, 2022. Stoebick testified at trial regarding the above-mentioned facts. For his part, Gibbs testified that he had not sent any texts to or called Stoebick. Gibbs acknowledged that he had, at one time, owned a camouflage hoodie like the one in the surveillance video, but claimed that he no longer owned it. Gibbs additionally testified that he had not been at Stoebick’s home during the early morning hours of October 31, 2021, and introduced surveillance footage which he claimed showed that he had been at home, checking on his truck at approximately 2:00 a.m. on the date in question. At the end of trial, the trial court found Gibbs guilty as charged and sentenced him to a 180-day suspended sentence.

Discussion and Decision

- [7] Gibbs contends that the evidence is insufficient to sustain his conviction for Class A misdemeanor invasion of privacy.

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) (cleaned up). Stated differently, in reviewing the sufficiency of the evidence, “we consider only the evidence and reasonable inferences most favorable to the convictions, neither reweighing evidence nor reassessing witness credibility” and “affirm the judgment unless no reasonable factfinder could find the defendant guilty.”

Mardis v. State, 72 N.E.3d 936, 938 (Ind. Ct. App. 2017) (quoting *Griffith v. State*, 59 N.E.3d 947, 958 (Ind. 2016)).

- [8] In order to prove that Gibbs committed Class A misdemeanor invasion of privacy, the State was required to prove that Gibbs knowingly or intentionally violated “a protective order to prevent domestic or family violence or

harassment.” Ind. Code § 35-46-1-15.1(a)(1). “A person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.” Ind. Code § 35-41-2-2(b). “A person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so.” Ind. Code § 35-41-2-2(a).

[9] In challenging the sufficiency of the evidence to sustain his conviction, Gibbs argues that the evidence is insufficient to prove that he called or texted Stoebick or visited her home on the dates in question. We disagree. The evidence most favorable to the trial court’s judgment indicates that despite being aware of the protective order, in late October of 2021, while the protective order was in effect, Gibbs contacted Stoebick via telephone call and text in violation of the protective order. He also visited Stoebick’s home during the very early morning hours of October 31, 2021, which was also in violation of the protective order. Stoebick, who had been married to Gibbs for six years, identified his voice as the caller, the wording of his text messages, and him as the individual outside her home. The evidence most favorable to the trial court’s judgment is sufficient to sustain Gibbs’s conviction. Gibbs’s claim to the contrary amounts to nothing more than an invitation for this court to reweigh the evidence, which we will not do. *See Mardis*, 72 N.E.3d at 938.

[10] The judgment of the trial court is affirmed.

May, J., and Mathias, J., concur.