MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Joseph Lewis,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 4, 2023

Court of Appeals Case No. 23A-CR-690

Appeal from the Marion Superior Court

The Honorable Jose Salinas, Judge

Trial Court Cause No. 49D23-2207-CM-18929

Memorandum Decision by Judge Kenworthy
Chief Judge Altice and Judge Weissmann concur.

Kenworthy, Judge.

Case Summary

[1] Joseph Lewis was convicted of Class B misdemeanor unauthorized entry of a motorized vehicle[1] following a bench trial. Lewis appeals, challenging the sufficiency of the evidence supporting his conviction. We affirm.

Facts and Procedural History

[2] Dawn Crittenden parked her car outside her sister's house on North Capitol Avenue in Indianapolis and went into the house for seven to ten minutes. When Crittenden returned to her car, she saw a man later identified as Lewis sitting in the driver's seat, rummaging through her purse. Crittenden took pictures of Lewis with her cellphone and told him to "get out of [her] car and get out of [her] purse." *Tr. Vol. 2* at 40. Lewis got out of the car and entered a house "a few houses down past [Crittenden's] sister's house[.]" *Id.* Lewis did not have Crittenden's permission to enter her car and he was not named on the car's title or lease.

[3] The State charged Lewis with unauthorized entry of a motorized vehicle. Lewis testified at his bench trial he was with a friend at a house on North Capitol Avenue and was told to go wait in the friend's car. Lewis got into the car he thought was his friend's and was confused when Crittenden opened the

[1] Ind. Code § 35-43-4-2.7(d) (2014).

door and told him to get out of her car. He claimed he did not see a purse in the car. The trial court found Lewis guilty, and Lewis now appeals.

Evidence was Sufficient to Support Lewis' Conviction

[4] A person commits unauthorized entry of a motorized vehicle when he enters a motor vehicle knowing he does not have the owner's permission to do so, and he has no "contractual interest" in the vehicle. I.C. § 35-43-4-2.7(d). Lewis concedes he entered Crittenden's vehicle without her permission and without a contractual interest in the vehicle but claims he did so by mistake, thinking it was his friend's car. He argues the State failed to sufficiently rebut his mistake-of-fact defense.

[5] "It is a defense that the person who engaged in the prohibited conduct was reasonably mistaken about a matter of fact, if the mistake negates the culpability required for commission of the offense." I.C. § 35-41-3-7 (1977). Whether the defendant made a mistake of fact is a question for the trier of fact, which we review like other challenges to the sufficiency of the evidence. *McGill v. State*, 160 N.E.3d 239, 246 (Ind. Ct. App. 2020). We neither reweigh the evidence nor assess the credibility of the witnesses. *Suggs v. State*, 51 N.E.3d 1190, 1193 (Ind. 2016). Instead, we consider only the evidence and reasonable inferences supporting the conviction. *Id.* We will affirm if there is probative evidence from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

[6] A mistake of fact defense requires a defendant to prove the mistake was honest and reasonable; was about a matter of fact; and negates the culpability required to commit the crime. *Potter v. State*, 684 N.E.2d 1127, 1135 (Ind. 1997). The State, however, "retains the ultimate burden of proving beyond a reasonable doubt every element of the charged crime, including culpability or intent[.]" *Hoskins v. State*, 563 N.E.2d 571, 576 (Ind. 1990). The State may meet its burden of proving there was no reasonably held mistake of fact by directly rebutting evidence, by affirmatively showing that the defendant made no such mistake, or by simply relying upon evidence from its case-in-chief. *Saunders v. State*, 848 N.E.2d 1117, 1121 (Ind. Ct. App. 2006), *trans. denied*.

[7] Here, the evidence was more than sufficient to rebut Lewis' defense and support his conviction. Photos of Lewis sitting in the driver's seat of Crittenden's car were admitted into evidence. Crittenden testified she had not given Lewis permission to be in her car. That Lewis was sitting in the driver's seat of a car parked a few houses away from the house he was visiting and was looking through a purse tends to belie his claim he thought he was in his friend's car. It was the trial court's prerogative as the fact-finder to weigh the evidence and decide who was telling the truth. *Id.* at 1121–22. Lewis' account was vague, and it is clear from the trial court's remarks when announcing its judgment that it did not believe his testimony. Lewis' argument is essentially an invitation to reweigh the evidence, an invitation we must decline. *See Suggs*, 51 N.E.3d at 1193.

Conclusion

[8] The State disproved Lewis' mistake-of-fact defense beyond a reasonable doubt, and his conviction is therefore affirmed.

[9] Affirmed.

Altice, C.J., and Weissmann, J., concur.