MEMORANDUM DECISION

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IN THE
COURT OF APPEALS OF INDIANA

Thomas G. Spiece,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

March 7, 2022

Court of Appeals Case No. 21A-CR-2372

Appeal from the Wabash Superior Court

The Honorable Benjamin D.R. Vanderpool, Judge

Trial Court Cause No. 85D01-1912-CM-1736

Vaidik, Judge.

Case Summary

[1] Thomas G. Spiece appeals his conviction for Class A misdemeanor criminal trespass, arguing the evidence is insufficient to support the conviction. We affirm.

Facts and Procedural History

[2] Spiece and Jordan Blevins worked together selling sports merchandise online. In November 2019, Spiece gave Blevins several sports jerseys to sell. On December 4, having not heard from Blevins regarding the sale, Spiece asked Phil Penn to drive him to Blevins's apartment building in Wabash County. Penn used to work at the building and knew the code to get in. When Spiece arrived at Blevins's apartment, the door was open because Greg Blatz, who owned the building, was doing maintenance work. Blevins was not home. Spiece walked into the apartment through the open door and saw Blatz, who spoke to him for "two or three minutes." Tr. Vol. II p. 23. When Blatz was not looking, Spiece found one of the jerseys, took it, and left.

[3] The next day, Blevins noticed the jersey was missing. He spoke with Blatz and learned Spiece had been in his apartment. He then contacted the Wabash Police Department, who came out to investigate. At the same time, Spiece went to the police station and spoke with Detective Ernest Krhin. Spiece told Detective Krhin he entered Blevins's apartment to retrieve the jersey and that, at the time

he entered the apartment, he knew he could possibly be "arrested" for doing so but believed he was in the right because the jersey was his. Ex. 10, 4:40-45.

[4] The State charged Spiece with Class A misdemeanor criminal trespass. A bench trial occurred in March 2021. Blevins and Blatz both testified they did not invite Spiece into the apartment or otherwise give him permission to enter. The trial court found Spiece guilty and sentenced him to 365 days in jail, fully suspended to probation.

[5] Spiece now appeals.

Discussion and Decision

[6] Spiece contends the evidence is insufficient to support his conviction. Our standard of review for sufficiency claims is well settled. We do not reweigh evidence or assess the credibility of witnesses. *Gray v. State*, 903 N.E.2d 940, 943 (Ind. 2009). Rather, we look to the evidence and reasonable inferences drawn therefrom that support the judgment and will affirm the conviction if there is probative evidence from which a reasonable factfinder could have found the defendant guilty beyond a reasonable doubt. *Id.*

[7] To obtain a conviction for Class A misdemeanor criminal trespass, the State had to prove Spiece, not having a contractual interest in the property, knowingly or intentionally entered the dwelling of another person without the person's consent. Ind. Code § 35-43-2-2(b)(5)(B). Here, the State presented evidence that Spiece entered Blevins's apartment, that neither Blatz nor Blevins

told him he could enter, and that Spiece later admitted he knew he could face legal consequences for doing so. But Spiece argues he believed he could enter the apartment because Blatz did not tell him "not [to] enter the apartment or to leave." Appellant's Br. p. 15. "The belief that one has a right to be on the property of another will defeat the mens rea requirement of the criminal trespass statute if it has a fair and reasonable foundation." *Taylor v. State*, 836 N.E.2d 1024, 1028 (Ind. Ct. App. 2005), *trans. denied*. However, whether Spiece believed he had consent and whether that belief was fair and reasonable is a determination to be made by the trier of fact. *Id.* So this is a request to reweigh evidence, which we do not do. *Id.*

[8] There is sufficient evidence to support Spiece's conviction.

[9] Affirmed.

Najam, J., and Weissmann, J., concur.