MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Raven W. Hathaway,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 9, 2022

Court of Appeals Case No. 22A-CR-1401

Appeal from the Fountain Circuit Court

The Honorable Stephanie S. Campbell, Judge

Trial Court Cause No. 23C01-2106-CM-248

Mathias, Judge.

[1] Raven Hathaway was convicted in Fountain Circuit Court of Class A misdemeanor invasion of privacy. Hathaway appeals and argues that the State

did not present sufficient evidence establishing that he intended to communicate with the protected person.

[2] We affirm.

Facts and Procedural History

[3] Hathaway was involved in a romantic relationship with Ashley Peterson that ended in December 2020. On June 3, 2021, the Fountain Circuit Court issued a protective order that, in pertinent part, prohibited Hathaway from directly or indirectly communicating with Peterson. Appellant's App. p. 44. Hathaway was personally served with the order on June 4, 2021.

[4] On the morning of June 15, 2021, Peterson took her son to Hub Park in Veedersburg, Indiana, for a children's program. Upon arriving, Peterson spoke with the program director, Jyma Payton. Peterson knew that Hathaway's son was likely participating in the program and began to discuss her issues with Hathaway with Payton. Shortly thereafter, Hathaway arrived at the park to drop off his child for the same program.

[5] Hathaway walked up to the pavilion where Peterson was standing while speaking with Payton. When Hathaway was approximately five feet from the pavilion, he asked Payton if Peterson was working at the park that day. Payton informed Hathaway that Peterson was not working at the park. Hathaway then stated that Peterson was a liar, there are two sides to every story, and Payton should not "listen to a thing she says." Tr. pp. 12, 21. Peterson told Hathaway he was violating the protective order, and Hathaway responded "[n]o it wasn't.

I wasn't talking to you." *Id*. at 12. Hathaway then walked away from the pavilion and left the park.

[6] The State charged Hathaway with Class A misdemeanor invasion of privacy. He waived his right to a jury trial and proceeded to a bench trial on February 15, 2022. Peterson, Payton, and Hathaway all testified at trial. The trial court found Hathaway guilty of invasion of privacy, and, on May 18, 2022, the trial court ordered Hathaway to serve 365 days, with twenty-two days executed and 343 days suspended to probation.

[7] Hathaway now appeals the sufficiency of the evidence supporting his conviction.

Discussion and Decision

[8] Hathaway claims that his presence at the park and his conversation with Payton is not sufficient evidence to support his conviction. Our standard of review is well-settled:

> For sufficiency of the evidence challenges, we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact. On sufficiency challenges, we will neither reweigh evidence nor judge witness credibility. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.

Hall v. State, 177 N.E.3d 1183, 1191 (Ind. 2021).

[9] To convict Hathaway of invasion of privacy, the State had to prove that he knowingly or intentionally violated "a protective order to prevent domestic or family violence or harassment issued under" Indiana Code chapter 34-26-5. *See* I.C. § 35-46-1-15.1(a)(1); Appellant's App. p. 15. Hathaway claims that Peterson was aware that Hathaway was also dropping his child off at the park on June 15, 2021, and that she waited for him to arrive "so that she could create a situation where he might violate the terms" of the protective order. Appellant's Br. at 8. Hathaway also claims that his lack of knowledge of Peterson's presence when he arrived at the park establishes that he lacked the requisite intent to commit invasion of privacy.[1]

[10] In pertinent part, the terms of the protective order prohibited Hathaway from "harassing, annoying, telephoning, contacting, or directly or indirectly communicating with" Peterson. Appellant's App. p. 44. "Communication occurs when a person makes something known or transmits information to another." *Kelly v. State*, 13 N.E.3d 902, 905 (Ind. Ct. App. 2014) (citations omitted).

[11] The State proved that, after he had arrived at the park, Hathaway began walking toward the park pavilion and noted Peterson's presence in the pavilion, but he continued to approach her. When he was approximately five feet away

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[1] "A person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to do so." I.C. § 35–41–2–2(a). "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." *Id.* at § 35–41–2–2(b).

from the pavilion, he asked Payton, who was standing next to Peterson, if Peterson was working at the park that day. After Payton responded, Hathaway began berating Peterson's character, calling Peterson a liar and instructing Payton not to listen to a word Peterson said.

[12] Although Hathaway was speaking directly to Payton, from the circumstances surrounding the conversation, the trial court reasonably concluded that Hathaway intended to indirectly communicate with Peterson. *Cf.* *Phipps v. State*, 90 N.E.3d 1190, 1196-97 (Ind. 2018) (holding that the content of an email sent to a third party was sufficient to prove intent to communicate with the protected person). Moreover, after Peterson reminded Hathaway that he was violating the protective order, he spoke directly to her. Finally, it is immaterial that Hathaway did not arrive at the park intending to communicate with Peterson. After he noted her presence in the pavilion, he continued to approach her and then communicated with her. Hathaway's claims about the meanings and effects of his actions are nothing but a request to reweigh the evidence, which we will not do.

[13] For all of these reasons, we conclude the evidence is sufficient to support Hathaway's Class A misdemeanor invasion of privacy conviction.

[14] Affirmed.

Robb, J., and Foley, J., concur.