

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Jakobi Matthews,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

December 22, 2023  
Court of Appeals Case No.  
23A-CR-1039  
Appeal from the  
Marion Superior Court  
The Honorable  
Helen W. Marchal, Judge  
Trial Court Cause No.  
49D26-2204-CM-9281

**Memorandum Decision by Judge Foley**  
Judges Pyle and Tavitias concur.

**Foley, Judge.**

[1] Jakobi Matthews (“Matthews”) was convicted after a bench trial of invasion of privacy<sup>1</sup> as a Class A misdemeanor and sentenced to 365 days, with 335 days suspended to probation and thirty days served. Matthews appeals his conviction, raising the following issue for our review: whether sufficient evidence was presented to support his conviction. We affirm.

## **Facts and Procedural History**

[2] Dynasty McCloud (“McCloud”), who is Matthews’s ex-girlfriend and the mother of his children, was granted a protective order based on domestic violence against Matthews on December 8, 2021. The protective order prohibited Matthews from “harassing, annoying, telephoning, contacting, or directly or indirectly communicating” with McCloud and enjoined Matthews from “threatening to commit or committing acts of domestic or family violence against” McCloud. Ex. Vol. I p. 12. On March 17, 2022, McCloud saw Facebook posts made by Matthews, in which Matthews posted, “If I cant [sic] See my kids imma [sic] make it hard 4 u too be outside . . .” and “My Son Bday is Sunday and im [sic] about Kut up On Everybody,” from his Facebook account under the name “Kobe Matthews.” *Id.* at 3. McCloud recognized this account as Matthews’s based on their previous Facebook communications, the profile pictures, and the friends connected to the account. Around the same time period, the “Kobe Matthews” account also posted, “Ima [sic] smoke my

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<sup>1</sup> Ind. Code § 35-46-1-15.1(a)(1).

bm” and “Im [sic] impatient.” *Id.* at 4. McCloud testified that these Facebook posts made by Matthews referred to her. McCloud had previously blocked Matthews on Facebook, but a friend sent her the posts that Matthews had written, and the friend allowed McCloud to view the posts using the friend’s account information. The next day, McCloud contacted the police and filed a police report that stated that Matthews made harassing Facebook posts regarding her. Indianapolis Metropolitan Police Department Detective Dawn Bailey (“Detective Bailey”) investigated the allegation and spoke with McCloud, who sent Detective Bailey screenshots of the Facebook posts.

[3] On April 1, 2022, McCloud was made aware by a friend of another Facebook post by Matthews. This post was on Matthews’s second Facebook account under the name “Grind HArdkb,” which McCloud was familiar with from previous interactions. The post stated “Dreka Gates U Scary Ass Lil bitch just wait till I see u.” *Id.* at 6. In this post, Matthews tagged the Facebook account, “Dreka Gates,” which was McCloud’s Facebook account name. McCloud notified Detective Bailey of this Facebook post.

[4] On April 6, 2022, the State charged Matthews with Class A misdemeanor invasion of privacy. A bench trial was held on March 30, 2023. The trial court determined that it would not consider the Facebook posts from March 17 because, unlike the April 1 post, there were no timestamps on the screenshots, and therefore, the date that the Facebook posts were made could not be determined. However, the screenshot of the April 1 post contained a timestamp, indicating that it was printed on April 1, 2022. McCloud testified

that she viewed the post on Facebook immediately after being sent the screenshot by a friend and right before sending a screenshot of the post to Detective Bailey. The trial court found that the April 1, 2022 post was a specific targeted message that constituted indirect contact that was posted with the intent to be communicated to McCloud. The trial court, therefore, found Matthews guilty as charged, and sentenced him to 365 days with 335 days suspended to probation and thirty days served. Matthews now appeals.

## **Discussion and Decision**

[5] Matthews argues that the evidence presented at trial was insufficient to support his conviction for Class A misdemeanor invasion of privacy. When there is a challenge to the sufficiency of the evidence, “[w]e neither reweigh evidence nor judge witness credibility.” *Gibson v. State*, 51 N.E.3d 204, 210 (Ind. 2016), *cert. denied*. Instead, we consider only that evidence most favorable to the judgment together with all reasonable inferences drawn therefrom. *Id.* “We will affirm the judgment if it is supported by substantial evidence of probative value even if there is some conflict in that evidence.” *Id.* Further, “[w]e will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017).

[6] To convict Matthews of Class A misdemeanor invasion of privacy, the State was required to prove beyond a reasonable doubt that, on or between March 17, 2022, and April 1, 2022, Matthews knowingly violated a protective order to

prevent domestic or family violence or harassment issued under Indiana Code chapter 34-26-5. Ind. Code § 35-46-1-15.1(a)(1); Appellant’s App. Vol. II p. 22. The protective order at issue here, which was issued under Indiana Code chapter 34-26-5, prohibited Matthews from “harassing, annoying, telephoning, contacting, or directly or indirectly communicating” with McCloud and enjoined Matthews from “threatening to commit or committing acts of domestic or family violence against” McCloud. Ex. Vol. I p. 12.

“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).

[7] The evidence most favorable to the trial court’s judgment established that, on December 8, 2021, McCloud was granted a protective order based on domestic violence against Matthews. Pursuant to the protective order, Matthews was prohibited, among other things, from contacting or communicating directly or indirectly with McCloud. He was also enjoined from threatening to commit acts of domestic or family violence against McCloud. On April 1, 2022, Matthews made a public Facebook post and tagged McCloud’s Facebook account name, Dreka Gates. In this Facebook post, Matthews threatened McCloud by stating, “Dreka Gates U scary Ass Lil bitch just wait till I see you.” Ex. Vol. I p. 6. Matthews’s words demonstrate that he was transmitting a threat to McCloud through his post. This threat named McCloud specifically in a public forum where it was likely that one of McCloud’s friends or family would see it and pass along the message.

[8] Matthews contends that there was no proof the public Facebook post was communicated by himself to McCloud because the posts were not sent directly to her, he did not ask a third-party to indirectly provide them to her, and he had been blocked on Facebook by McCloud. However, there was no evidence that Matthews was aware that McCloud had blocked him. Additionally, the communication was made in a public forum and tagged McCloud's Facebook account such that McCloud's friends and family were likely to see the post and alert her to it. It was, therefore, reasonable to assume that the post would reach McCloud whether or not she had Matthews's account blocked. In *Phipps v. State*, 90 N.E.3d 1190, 1197 (Ind. 2018), our Supreme Court affirmed a conviction of invasion of privacy where the defendant e-mailed the elders at the church where the pastor, who the defendant was prohibited from contacting pursuant to a protective order, worked. The Court held that the contents of the email, which placed demands on the pastor, demonstrated that the defendant was aware that she would be communicating indirectly with the pastor although the email was addressed to a third party. *Id.* at 1196–97. Here, similarly, Matthews's post, which addressed McCloud directly by tagging her account, demonstrated that Matthews was communicating with McCloud through a public forum and attempting to threaten her. Matthews's act of communication was almost immediately successful as McCloud was made aware of the post on the same date. Therefore, the State provided sufficient evidence to prove that Matthews indirectly communicated with McCloud through his Facebook post in violation of a protective order.

[9] Matthews also argues that there was no evidence that the post at issue was made after the protective order was issued on December 8, 2021, because the State only proved the date the Facebook post was printed not posted. However, the evidence presented established that the communication was made within the timeframe contained in the charging information and specifically, on April 1, 2022. That is, McCloud testified that she was informed about the post on April 1, 2022, and after she was told about the post, McCloud used her friend's account to view the post herself, and then sent a screenshot of the post to Detective Bailey. The screenshot indicates that the post was made four hours before the time it was viewed, which was the time the screenshot was taken. McCloud also testified that she viewed the post and sent it to Detective Bailey on April 1, 2022. We, therefore, conclude that the State presented sufficient evidence to support Matthew's conviction for Class A misdemeanor invasion of privacy.

[10] Affirmed.

Pyle, J., and Tavitas, J., concur.