

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT

Valerie K. Boots
Timothy J. Burns
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
Ellen H. Meilaender
Supervising Deputy Attorney
General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Ismael Rosa Reyes,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

February 28, 2023

Court of Appeals Case No.
22A-CR-2400

Appeal from the Marion Superior
Court

The Honorable Clark H. Rogers,
Judge
The Honorable David M. Hooper,
Magistrate

Trial Court Cause No.
49D25-2106-CM-17035

Memorandum Decision by Judge Pyle

Chief Judge Altice and Judge Riley concur.

Pyle, Judge.

- [1] Ismael Rosa Reyes (“Reyes”) appeals his conviction for Class A misdemeanor intimidation. He argues that there is insufficient evidence to support his conviction. To convict Reyes, the State had to prove beyond a reasonable doubt that Reyes communicated a threat to Araceli Jimenez (Jimenez”) with the intent that she be placed in fear of retaliation for the prior lawful act of denying Reyes’ lease application. *See* IND. CODE § 35-45-2-1(a)(2); (App. Vol. 2 at 20). A “threat” is defined as, among other things, an “expression, by words or actions, of an intention to unlawfully injure the person threatened or another person, or damage property . . . [or] expose the person threatened to hatred, contempt, disgrace, or ridicule[.]” I.C. § 35-45-2-1(c)(1), (6).
- [2] At the August 2022 bench trial, Jimenez testified that she was a leasing agent at an apartment complex (“the apartment complex”). She also testified that Reyes, who had been staying with a tenant in the apartment complex, had applied to be added to the tenant’s lease. Jimenez testified that the leasing office had denied Reyes’ application. In response to the denial, Reyes had called the leasing office and had warned Jimenez that he “had court that day and after getting out of court [Jimenez] was going to see what was going to happen to [her].” (Tr. Vol. 2 at 27).
- [3] Jimenez further testified that because of the application denial, Reyes had told her that he was going to tell her boss that she had had a romantic relationship with Reyes and had sent Reyes social media messages that had been sent while

Jimenez had been on vacation with her husband. However, Jimenez also testified that she had never sent any messages to Reyes, had never been in any romantic relationship with Reyes who was young enough to be her son, and that Reyes had never sent any messages to her boss. Jimenez further testified that she had felt “threatened[,]” felt “a lot of fear and anxiety[,]” and called the police. (Tr. Vol. 2 at 27).

[4] Reyes argues that his conversation with Jimenez did not constitute a threat required by the intimidation statute. However, Reyes’ arguments amount to a request to reweigh the evidence, which we will not do. *See Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). As the fact finder, the trial court properly weighed the evidence and determined beyond a reasonable doubt that Reyes, intending to place Jimenez in fear for denying his lease application, had threatened her. Accordingly, we affirm Reyes’ Class A misdemeanor intimidation conviction.

[5] Affirmed.

Altice, C.J., and Riley, J., concur.