

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Dijoun Sims,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 26, 2023

Court of Appeals Case No.
23A-CR-391

Appeal from the Marion Superior
Court

The Honorable Clark Rogers,
Judge

Trial Court Cause No.
49D25-2207-F6-18644

Memorandum Decision by Judge Brown
Judge Crone and Senior Judge Robb concur.

Brown, Judge.

[1] Dijoun Sims (“Sims”) appeals his conviction for criminal mischief as a class B misdemeanor and claims the evidence is insufficient to sustain his conviction. We affirm.

Facts and Procedural History

[2] In July 2022, LaDonna Sims (“LaDonna”), Sims’s mother, believed Sims was homeless. LaDonna would deliver clean clothes to the shelter at which he was staying, had some of Sims’s possessions including clothing in her car, and, if he needed something, she would bring it to him.

[3] On July 12, 2022, Sims arrived at LaDonna’s house and “just wanted to get in.” Transcript Volume II at 24. Sims asked if he could come in, and LaDonna said no through the window. Sims said that he had “something in there” and was “banging on [her] door.” *Id.* at 25. He was also “knocking on the windows and eventually he ended up . . . just tearing up the screen door.” *Id.* LaDonna heard a “boom, boom, boom” and, when she opened the door, “the bottom of the screen door was out” and “[t]he storm door was ripped away from the . . . bar that connects it to the door frame.” *Id.*

[4] Indianapolis Metropolitan Police Officer Jack Steinacker responded to the scene based upon a dispatch of a burglary of a residence in progress. He encountered LaDonna who told him that Sims “had damaged her door and was trying to get in.” *Id.* at 33. LaDonna provided a description of Sims, and officers located him less than five hundred feet from the residence.

- [5] On July 13, 2022, the State charged Sims with Count I, attempted residential entry as a level 6 felony, and Count II, criminal mischief as a class B misdemeanor.
- [6] On February 2, 2023, the court held a bench trial. The State presented the testimony of LaDonna and Officer Steinacker and photographs of the damage to the door. The court found Sims not guilty of Count I, attempted residential entry, and guilty of Count II, criminal mischief as a class B misdemeanor. The court sentenced Sims to 180 days with 174 days suspended.

Discussion

- [7] Sims argues that there is no direct evidence that he caused the damage to LaDonna's door and that mere presence at the scene of an offense is insufficient to prove guilt. He also asserts the evidence shows that he could have damaged the door but it does not show beyond a reasonable doubt that he did so.
- [8] When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. *Id.* We consider conflicting evidence most favorably to the trial court's ruling. *Id.* We affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." *Id.* (quoting *Jenkins v. State*, 726 N.E.2d 268, 270 (Ind. 2000)). "[I]t is well established that 'circumstantial evidence will be deemed sufficient if inferences may reasonably be drawn that enable the trier of

fact to find the defendant guilty beyond a reasonable doubt.” *Pratt v. State*, 744 N.E.2d 434, 437 (Ind. 2001) (quoting *Bonds v. State*, 721 N.E.2d 1238, 1242 (Ind. 1999)).

[9] At the time of the offense, Ind. Code § 35-43-1-2 provided that “[a] person who recklessly, knowingly, or intentionally damages or defaces property of another person without the other person’s consent commits criminal mischief, a Class B misdemeanor.”¹

[10] The record reveals LaDonna testified that Sims was “banging on [her] door” and “knocking on the windows and eventually he ended up . . . just tearing up the screen door.” Transcript Volume II at 25. During direct examination, when asked if Sims was hitting or kicking the door, LaDonna answered: “I didn’t witness that. I just – I heard the boom, boom, boom, and then when I opened up the door the bottom of the screen door was out. The storm door was ripped away from the . . . bar that connects it to door frame was (inaudible).” *Id.* When asked if the photograph in State’s Exhibit 2 was a true and accurate representation of her door “after Mr. Sims was damaging it,” she answered affirmatively. *Id.* at 26. With respect to the photograph in State’s Exhibit 3, she testified that it showed “the screen door railing that’s gone” and “[t]hat’s missing.” *Id.* The prosecutor asked if that was previously intact prior to Sims being at her house, and she answered: “Completely, uh huh.” *Id.* When asked

¹ Subsequently amended by Pub. L. No. 79-2023, § 2 (eff. July 1, 2023).

“after that banging then there was damage,” she answered affirmatively. *Id.* at 27. She also testified that the door was “completely damaged” and “[i]t doesn’t work anymore.” *Id.* at 29. Officer Steinacker testified that LaDonna told him that Sims “had damaged her door” *Id.* at 33. When asked to describe the damage to the door, he explained that “[i]t was on the storm door” and that “[t]he lower panel . . . had been damaged in a manner that had been pushed inward and the retention spring that was attached to it no longer functioned because of the damage.” *Id.* at 34.

[11] Based upon the record, we conclude that evidence of probative value exists from which the court as the trier of fact could have found Sims guilty beyond a reasonable doubt of criminal mischief as a class B misdemeanor.

[12] For the foregoing reasons, we affirm Sims’s conviction.

[13] Affirmed.

Crone, J., and Robb, Sr.J., concur.