

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Anthony M. Veals,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

June 25, 2021

Court of Appeals Case No.  
20A-CR-2098

Appeal from the Elkhart Superior  
Court

The Honorable Charles Carter  
Wicks, Judge

Trial Court Cause No.  
20D05-1909-F6-1243

**Bailey, Judge.**

## Case Summary

- [1] Anthony M. Veals (“Veals”) appeals his conviction, following a jury trial, of residential entry, a Level 6 felony,<sup>1</sup> and his sentence. We affirm.

## Issues

- [2] Veals raises two issues which we restate as follows:
- I. Whether the State provided sufficient evidence to support his conviction of residential entry, as a Level 6 felony.
  - II. Whether his sentencing challenge is moot.

## Facts and Procedural History

- [3] On September 8, 2019, Luis Diaz (“Diaz”) was at his girlfriend’s, Patricia Castro’s (“Patricia”), house where she lived with her two brothers, Sergio Castro (“Sergio”)—who owned the home—and Fernando Castro (“Fernando”). Diaz was sitting in the living room, into which the front door opens. He and Patricia were watching a movie with her dog, and Diaz paused the movie while Patricia went to the bathroom. While the movie was paused, the dog began to bark, and Diaz heard footsteps on the front porch. Diaz thought the footsteps were one of Patricia’s brothers coming home until the dog started growling. Diaz then saw the front door open from the outside. Diaz

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<sup>1</sup> Ind. Code § 35-43-2-1.5.

witnessed Veals, who he did not know at the time, stick his head inside the front door, look around for several seconds, move back out onto the porch, and shut the front door. Diaz immediately walked out of the front door to see who had tried to enter the house. Fernando, who had just arrived home, was on the front porch confronting Veals. Veals appeared “stunned” or “confused.” Tr. at 30. Diaz called the police.

[4] The State charged Veals with residential entry, a Level 6 felony. Following a jury trial, the jury found Veals guilty as charged. At Veals’s October 22, 2020, sentencing hearing, the court found aggravating factors that it determined outweighed the mitigating factors. The court sentenced Veals to 900 days in jail, with credit for 405 days served plus earned credit time. The trial court noted that, after accounting for credit time, “that le[ft] about 45 days to serve.” *Id.* at 63.

[5] Veals now appeals his conviction and his sentence.

## Discussion and Decision

### Sufficiency of the Evidence

[6] Veals alleges the State failed to provide sufficient evidence to support his conviction.

When reviewing the sufficiency of the evidence to support a conviction, we consider only the probative evidence and reasonable inferences supporting the fact-finder’s decision. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It is the fact-finder’s

role, and not ours, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. *Id.* To preserve this structure, when we are confronted with conflicting evidence, we consider it most favorably to the fact-finder's decision. *Id.* We affirm a conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.* It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence; rather, the evidence is sufficient if an inference reasonably may be drawn from it to support the fact-finder's decision. *Id.* at 147.

*Dowell v. State*, 155 N.E.3d 1284, 1286 (Ind. Ct. App. 2020). Moreover, a conviction may be sustained on circumstantial evidence alone. *Sallee v. State*, 51 N.E.3d 130, 134 (Ind. 2016).

- [7] To prove beyond a reasonable doubt that Veals committed the crime of residential entry, the State must have provided evidence that: (1) Veals, (2) knowingly or intentionally, (3) broke into and entered, (4) the dwelling, (5) of another person. I.C. § 35-43-2-1.5. Veals first contends that the State did not prove that the place into which he stuck his head was a “dwelling.” “Dwelling” is defined as “a building, structure, or other enclosed space, permanent or temporary, movable or fixed, that is a person’s home or place of lodging.” I.C. § 35-31.5-2-107. The State provided evidence, through Diaz’s testimony, that the place into which Veal stuck his head was the home where Patricia and her two brothers lived, and that Sergio owned the home. That was sufficient evidence to prove that the place into which Veals stuck his head was a “dwelling.”

[8] Veals also briefly asserts that the State failed to prove that he “knowingly or intentionally” stuck his head in the door of the building. 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. I.C. § 35-41-2-2(b).

[I]ntent is a mental function and without a confession, it must be determined from a consideration of the conduct, and the natural consequences of the conduct.” *Duren v. State*, 720 N.E.2d 1198, 1202 (Ind. Ct. App. 1999), *trans. denied*. Accordingly, intent often must be proven by circumstantial evidence. *Id.* The trier of fact is entitled to infer intent from the surrounding circumstances. *White v. State*, 772 N.E.2d 408, 412 (Ind. 2002).

*Laughlin v. State*, 101 N.E.3d 827, 829 (Ind. Ct. App. 2018).

[9] The evidence established that Veals opened the front door of the Castro home and stuck his head into the house. The jury was entitled to infer from those facts that Veals “knowingly and intentionally” broke into and entered<sup>2</sup> the Castro home. Veals’s argument he was not aware of what he was doing when he entered the dwelling because he appeared “stunned and confused” when he was confronted on the front porch by Fernando, Diaz, and police is simply a request that we reweigh the evidence, which we will not do.

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<sup>2</sup> Veals does not challenge the sufficiency of the evidence to prove that he “broke into and entered” the Castro residence.

[10] The evidence was sufficient to support Veals's conviction.

## Mootness of Sentencing Decision

[11] Veals also maintains that his sentence was inappropriate in light of the offense and his character. However, the validity of a sentence is rendered moot after the sentence has been served, *Smith v. State*, 971 N.E.2d 86, 89 (Ind. 2012) (citing *Lee v. State*, 816 N.E.2d 35, 40 n. 2 (Ind.2004)), and we do not “engage in discussions of moot questions or render advisory opinions,” *Irwin v. State*, 744 N.E.2d 565, 568 (Ind. Ct. App. 2001).<sup>3</sup> On October 22, 2020, Veals was sentenced to 900 days, 405 of which had already been served. With good time credit, that left Veals with ninety days left to serve. However, the trial court noted he would serve only about forty-five more days with credit time. Thus, at the latest, Veals was released from jail on January 20, 2021—i.e., ninety days from October 22, 2020. Veals's release from jail renders his sentencing argument moot; therefore, we do not address that issue.

## Conclusion

[12] The State presented sufficient evidence to support Veals's conviction of residential entry. Veals's sentencing challenge is moot.

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<sup>3</sup> There is an exception to the mootness doctrine for questions that involve matters of great public interest, but there is no such question presented in this case. *See Bell v. State*, 1 N.E.3d 190, 192 (Ind. Ct. App. 2013).

[13]    **Affirmed.**

May, J., and Robb, J., concur.