

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Zeggory Thompkins,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

January 19, 2022

Court of Appeals Case No.
21A-CR-1991

Appeal from the St. Joseph
Superior Court

The Honorable David C.
Chapleau, Judge

Trial Court Cause No.
71D08-2003-CM-969

Crone, Judge.

Case Summary

- [1] Zeggory Thompkins appeals his conviction, following a bench trial, for class A misdemeanor intimidation. He contends that the State presented insufficient evidence to support his conviction. Finding the evidence sufficient, we affirm.

Facts and Procedural History

- [2] In March 2020, Thompkins was a resident of Silver Birch Mishawaka, an assisted living facility located in St. Joseph County. On March 24, Stacey Demeester, the executive director of Silver Birch, informed Thompkins that he was being discharged from the facility due to his violations of the facility's rules. Thompkins refused to leave the premises, and Demeester contacted the police. Thompkins eventually left.
- [3] Thompkins began calling Demeester "immediately upon leaving the grounds." Tr. Vol. 2 at 5. During these calls, Thompkins was "very threatening and erratic." *Id.* at 6. He told Demeester, "I know what car you drive" and "you and your daughter better watch your backs. I'm coming for you." *Id.*¹ These statements made Demeester feel "very threatened." *Id.* Following the phone calls, Demeester called the police. She also hired security at the facility for extra protection.
- [4] On March 26, 2020, the State charged Thompkins with intimidation. A bench trial was held on August 13, 2021. The trial court found Thompkins guilty as

¹ Demeester testified that her daughter also worked at the facility.

charged and imposed a thirty-day suspended sentence. The court also imposed a no-contact order with Demeester for a period of one year. This appeal ensued.

Discussion and Decision

- [5] Thompkins challenges the sufficiency of the evidence supporting his conviction. “When reviewing a challenge to the sufficiency of the evidence underlying a criminal conviction, we neither reweigh the evidence nor assess the credibility of witnesses.” *Bailey v. State*, 979 N.E.2d 133, 135 (Ind. 2012). “The evidence—even if conflicting—and all reasonable inferences drawn from it are viewed in a light most favorable to the conviction.” *Id.* If the finder of fact heard evidence of probative value from which it could have inferred the defendant’s guilt beyond a reasonable doubt, we must affirm the conviction. *Brown v. State*, 827 N.E.2d 149, 152 (Ind. Ct. App. 2005).
- [6] To convict Thompkins of class A misdemeanor intimidation as charged here, the State was required to prove that he communicated a threat to Demeester with the intent that she be placed in fear that the threat will be carried out. Ind. Code § 35-45-2-1(a)(1)(4). “Threat” in this context means “an expression, by words or action, of an intention” to “unlawfully injure the person threatened, or another person[.]” Ind. Code § 35-45-2-1(d)(1).
- [7] Thompkins’ sole claim on appeal is that the State presented insufficient evidence to prove that he intended to place Demeester in fear that his threat against her would be carried out. It is well settled that “intent may be proven by circumstantial evidence.” *McCaskill v. State*, 3 N.E.3d 1047, 1050 (Ind. Ct. App.

2014). Intent can be inferred from a defendant's conduct and the natural and usual sequence to which such conduct logically and reasonably points. *Id.* Moreover, “[t]he intent that matters is not whether the speaker really means to carry out the threat, but only whether he intends it to place the victim in fear of bodily harm or death.” *Brewington v. State*, 7 N.E.3d 946, 963 (Ind. 2014), *cert. denied* (2015).

[8] Here, Demeester testified that after she discharged Thompkins from the residential facility, he called her and threatened that she and her daughter better “watch [their] backs” because he “was coming” for them. Tr. Vol. 2 at 6. Demeester stated that she felt “very threatened” by these statements, so much so that she called police and hired security for protection. *Id.* From this evidence, the trial court could reasonably infer that Thompkins, by his statements to Demeester, intended to place her in fear that he would unlawfully injure her or her daughter.

[9] Although Thompkins admits to being very upset and calling Demeester, he disputes what exactly he said to her or what his intent was when he made the statements. However, it was the trial court's prerogative to weigh conflicting evidence and to assess witness credibility, and we will not second-guess those decisions on appeal. The State presented sufficient evidence to support Thompkins' intimidation conviction, and therefore we affirm.

[10] Affirmed.

Bradford, C.J., and Tavitas, J., concur.