MEMORANDUM DECISION

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IN THE
COURT OF APPEALS OF INDIANA

Thomas Cortez Minor, II,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 25, 2022

Court of Appeals Case No. 21A-CR-1380

Appeal from the Marion Superior Court

The Honorable Amy M. Jones, Judge

The Honorable Richard E. Hagenmaier, Magistrate

Trial Court Cause No. 49D34-2005-CM-15931

Mathias, Judge.

[1] Thomas Cortez Minor, II appeals his conviction for Class B misdemeanor disorderly conduct. Minor raises a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

[2] In the evening of May 9, 2020, Indianapolis Metropolitan Police Department Officer Ethan Carr placed Minor under arrest for a traffic violation. Around 10:30 p.m., while waiting in a residential neighborhood for a "jail wagon" to arrive, Minor "became very agitated and aggressive" with officers. Tr. p. 40. Minor was "a few blocks" away from his mother's apartment, and he was "attempting to scream multiple city blocks" to get her attention. *Id.* at 40–41. He then began "cursing at officers," telling them "to kill him and to shoot him." *Id.* at 41.

[3] Officer Carr asked Minor "to be quiet" more than "a handful" of times. *Id.* However, Minor continued to be "[e]xtremely loud" and continued "yelling or screaming." *Id.* Officer Carr noted that they were located in a residential area. *Id.*

[4] The State charged Minor in relevant part with Class B misdemeanor disorderly conduct. After a bench trial at which Officer Carr testified, the trial court found Minor guilty of that offense and sentenced him accordingly. This appeal ensued.

Discussion and Decision

[5] Minor appeals his conviction for Class B misdemeanor disorderly conduct and asserts that the State failed to present sufficient evidence to support his conviction. In reviewing sufficiency claims, "we neither reweigh the evidence nor judge witness credibility." *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020). "Rather, we consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence." *Id.* "We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt." *Id.* at 263.

[6] To prove Class B misdemeanor disorderly conduct, the State was required to show that Minor recklessly, knowingly, or intentionally made "unreasonable noise and continue[d] to do so after being asked to stop." Ind. Code § 35-45-1-3(a)(2) (2021). Our supreme court has held that "the criminalization of 'unreasonable noise' was 'aimed at preventing the harm which flows from the volume' of noise." *Whittington v. State*, 669 N.E.2d 1363, 1367 (Ind. 1996) (quoting *Price v. State*, 622 N.E.2d 954, 966 (Ind. 1993)). "The State must prove that a defendant produced decibels of sound that were too loud for the circumstances." *Id.* (emphasis removed).

[7] Minor asserts on appeal that his noise was merely a "fleeting annoyance" and "was not unreasonable." Appellant's Br. pp. 7–8. But Minor's argument on appeal is merely a request for this Court to reweigh the evidence, which we will

not do. The evidence most favorable to the trial court's judgment shows that Minor repeatedly yelled or screamed, after having been asked multiple times to stop, in a residential area at 10:30 p.m. He appeared to be trying to get his mother's attention at her apartment several city blocks away. A fact finder could reasonably conclude from that evidence that Minor produced decibels of sound that were too loud for the circumstances. *See Whittington*, 669 N.E.2d at 1367. We therefore affirm Minor's conviction for Class B misdemeanor disorderly conduct.

[8] Affirmed.

Bailey, J., and Altice, J., concur.