MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Alexander W. Robbins
The Law Office of Alex Robbins
Bedford, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Jesse R. Drum
Assistant Section Chief
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Christopher R. Hale,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 13, 2021

Court of Appeals Case No. 21A-CR-1144

Appeal from the Morgan Superior Court

The Honorable Sara A. Dungan, Judge

Trial Court Cause No. 55D03-2011-CM-1644

Weissmann, Judge.

[1] Christopher Hale appeals his conviction for Class B misdemeanor public intoxication, claiming the State presented insufficient evidence that he endangered himself while walking along State Road 37. Given evidence that Hale crossed the four-lane highway while barely able to hold himself up, we affirm.

Facts

[2] On August 13, 2020, at approximately 10:00 p.m., a Morgan County motorist saw Hale walking along the grassy shoulder of State Road 37. Hale "appeared intoxicated," according to the motorist. Tr. Vol. II, p. 141. He was "[b]arely ab[le] to hold himself up" and "[unable] to walk in any controlled fashion." *Id.* After passing Hale, the motorist called 911 and reported his condition to police.

[3] Officers from the Martinsville Police Department arrived at the scene minutes later and found Hale walking on the opposite side of the highway. When questioned by the officers, Hale admitted he had crossed the highway to purchase a drink and some food from a nearby gas station. The officers observed that Hale slurred his speech and swayed back and forth during questioning. They therefore administered a portable breath test, which showed the presence of alcohol.

[4] The officers asked Hale if there was anyone he could call for a ride, but Hale said that was "irrelevant." Tr. Vol. II, p. 165. The officers then decided to arrest Hale "because he had [already put himself in danger [by] crossing the four lanes of [State Road] 37 in the state he was in." *Id.* They also assumed Hale was

going to "walk[] back across to where he came from, putting himself and others in danger again." *Id.*

[5] Hale was charged with Class B misdemeanor public intoxication, and a jury found him guilty as charged. Hale now appeals.

Discussion and Decision

[6] Hale argues that the State presented insufficient evidence to support his conviction for public intoxication. Our standard of review for sufficiency claims is well settled: we do not reweigh the evidence or judge the credibility of witnesses. *Estes v. State*, 166 N.E.3d 950, 952 (Ind. Ct. App. 2021). We consider only the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Id*. We will affirm the conviction unless no reasonable factfinder could have found the defendant guilty beyond a reasonable doubt. *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009).

[7] Indiana Code § 7.1-5-1-3(a)(1) makes it "a class B misdemeanor for a person to be in a public place or a place of public resort in a state of intoxication caused by the person's use of alcohol or a controlled substance . . . if the person: (1) endangers the person's life. . . ." Hale claims only that the State failed to prove endangerment. Indiana's public intoxication statute does not define the word, "endanger." *Estes*, 166 N.E.3d at 952. However, this Court has previously assigned the word its "plain, ordinary, and usual meaning." *Id.* "The dictionary definition of 'endanger' is 'to bring into danger or peril' or 'to create a

dangerous situation.'" *Id.* (quoting *Endanger*, *Merriam-Webster*, http://merriamwebster.com/dictionary/endanger).

[8] To satisfy the element of endangerment, the State must show that "some past or present conduct" by the defendant placed the defendant's life in danger. *Davis v. State*, 13 N.E.3d 500, 503 (Ind. Ct. App. 2014). The State is not required to prove that "actual harm or injury occurred." *Hinton v. State*, 52 N.E.3d 1, 4 (Ind. Ct. App. 2016). But "speculation regarding things that *could* happen in the future is not sufficient." *Sesay v. State*, 5 N.E.3d 478, 485 (Ind. Ct. App. 2014) (emphasis in original), *trans. denied*.

[9] Hale contends his conviction is impermissibly based on some speculative, future harm because neither the police officers nor the motorist saw Hale fall or enter the highway. Thus, according to Hale, "the only evidence the State could rely on to argue he was a danger to himself was that he staggered, slurred his speech, and swayed back and forth while talking to officers." Appellant's Br. p. 5. Hale, however, ignores that he admitted to crossing the four-lane highway minutes prior to the officers' arrival on the scene.[1] This evidence, combined with the officers' observations of Hale and the motorist's testimony that he could barely hold himself up, support a finding that Hale endangered himself. Stated differently, the State presented sufficient evidence that Hale's conduct in

[1] Hale's crossing of the highway can also be inferred from the evidence that the officers found him on the side of the highway opposite where he was seen by the motorist.

crossing a four-lane highway while he could barely hold himself up placed his life in danger.

[10] The judgment of the trial court is affirmed.

Mathias, J., and Tavitas, J., concur.