

Case Summary

Robert P. Journey, Jr., was convicted of indecent exposure after a neighbor observed him standing nude in his open doorway and on his porch. He appeals, challenging the sufficiency of the evidence to support his conviction. Concluding that the evidence is sufficient, we affirm.

Facts and Procedural History

On June 14, 2006, Amanda Brandenburg was pulling weeds in front of her house in rural Randolph County, Indiana. She noticed Journey, her neighbor, outside his house, which is located approximately six hundred feet from the front of her house. Journey was completely nude. Brandenburg went inside her home and videotaped the naked Journey standing in his open doorway and on his front porch. Brandenburg observed Journey standing nude for five to ten minutes. Journey would have been visible to motorists on a nearby road if they had driven past his house during this time. Tr. p. 9-10.

The State charged Journey with indecent exposure.¹ After a bench trial, he was convicted as charged. Journey now appeals his conviction.

Discussion and Decision²

Journey argues on appeal that the evidence is insufficient to support his conviction for indecent exposure. When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable

¹ Ind. Code § 35-45-4-1(e).

² In the argument section of his brief, Journey discusses an unpublished memorandum decision. We remind Journey's counsel that memorandum decisions are not be cited as authority except by parties to the case to establish *res judicata*, collateral estoppel, or law of the case, none of which are applicable here. Ind. Appellate Rule 65(D).

inferences supporting the judgment. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It is the factfinder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. *Id.* To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider only the evidence most favorable to the trial court's ruling. *Id.* Appellate courts affirm the conviction unless no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt. *Id.* The evidence is sufficient if an inference may reasonably be drawn from it to support the judgment. *Id.* at 147.

Indiana Code § 35-45-4-1(e) provides, in relevant part:

A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place: . . .

(4) appears in a state of nudity;
where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

Journey contends that the evidence is insufficient to support his conviction for indecent exposure because it does not show that he was in a "place other than a public place" or that he intended to be seen nude by persons other than invitees and occupants of his home. Appellant's Br. p. 1.

In support of his first argument, Journey writes, without citation to authority, "Out [sic] society has always viewed a front door or a front porch is [sic] available to the public to approach." *Id.* at 7. Although the term "public place" is not defined in Indiana Code § 35-45-4-1, we have held that for the purpose of Indiana Code § 35-45-4-1, "a public place is any place where members of the public are free to go without restraint." *Long v. State*, 666 N.E.2d 1258, 1261 (Ind. Ct. App. 1996); *see also State v. Baysinger*,

272 Ind. 236, 397 N.E.2d 580, 583 (1979) (interpreting “public place” under Indiana’s previous public indecency provisions). It is well established that a private residence and the grounds surrounding it are not public places. *State v. Jenkins*, 898 N.E.2d 484, 487 (Ind. Ct. App. 2008) (reviewing the term “public place” in the context of the public intoxication statute) (citing *Moore v. State*, 634 N.E.2d 825, 827 (Ind. Ct. App. 1994)), *trans. denied*; *Whatley v. State*, 708 N.E.2d 66, 68 (Ind. Ct. App. 1999) (finding that “there is no significant difference between what constitutes a public place in the context of the public indecency statute and what constitutes a public place in the context of the public intoxication statute”). Here, Journey does not contest that he stood nude in the open doorway of his house and on his front porch. Thus, the evidence is sufficient to show that he appeared in a state of nudity “in a place other than a public place.” I.C. § 35-45-4-1(e).

Journey next argues that the evidence is insufficient to show that he intended to be seen nude by persons other than invitees and occupants of his home. However, this is simply a request for us to reweigh the evidence. *See Whatley*, 708 N.E.2d at 68. “The law presumes that a person intends the consequences of his act.” *Id.* Here, the evidence is sufficient to support the fact-finder’s determination that Journey intended to be seen by someone who was not an invitee or an occupant of his home. While pulling weeds in front of her house, Brandenburg observed Journey standing nude in his open doorway and on his front porch. She then used a video camera to record Journey’s actions. Journey was nude and visible to Brandenburg for five to ten minutes. At trial, the court summarized the contents of Brandenburg’s video recording as follows:

The video shows Defendant to be totally nude. At various times, he is standing on his porch looking to his right or squatting down and looking left. At other times he is standing on the porch or in the doorway looking out. Finally he is standing in the doorway somewhat sideways wiping his feet.

Appellant's App. p. 256. Further, the trial court was presented with evidence that Journey's porch and front door not only face Brandenburg's house, but they are also near a road. State's Exh. 2. Brandenburg testified that Journey would have been visible to passing motorists. Tr. p. 9-10. Although Journey contended at trial that he was only outside looking for his cat, Princess, and that he lacked the intent to be seen by others, *id.* at 26, the trial court did not believe this testimony. We will not reweigh the evidence. The evidence is sufficient to support Journey's conviction for indecent exposure.

Affirmed.

NAJAM, J., and FRIEDLANDER, J., concur.