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**IN THE  
COURT OF APPEALS OF INDIANA**

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JAVIER VERA,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0812-CR-1121

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable David J. Certo, Judge  
Cause No. 49G21-0810-CM-233535

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**July 23, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

## Case Summary

Javier Vera appeals his conviction for Class A misdemeanor invasion of privacy. Specifically, he contends that the evidence is insufficient to support his conviction because he had no knowledge that a protective order was issued against him since he does not read English. Because the record shows that Vera was arrested for violating the very same protective order three months earlier, the evidence is sufficient to prove his knowledge of the issuance of the protective order. We therefore affirm his conviction.

## Facts and Procedural History

The facts most favorable to the judgment reveal that on June 25, 2008, Cherie Thompson received an *ex parte* order of protection against Vera, with whom she had a relationship for seven or eight years, in Marion Superior Court pursuant to Indiana Code chapter 34-26-5. Specifically, the protective order restrained Vera “from committing further acts of abuse or threats of abuse” and restrained him “from any contact with” Thompson. Ex. 1, p. 1. The order was effective until June 25, 2010. *Id.*

In June 2008, Vera received a paper on the door of his house, but because he does not read English, he only recognized his name and Thompson’s name on the paper. He approached Thompson about the paper, but she said it was “nothing.” Tr. p. 34.

On July 9, 2008, Vera was arrested while in the presence of Thompson. He was in police custody for five hours before being released but charges were never filed. *See id.* at 36 (“I was [on the scene] fifteen minutes and then they took me to the jail and had me there for five hours.”). According to Thompson, Vera was arrested for violating the June 25, 2008, protective order. *Id.* at 10.

On October 11, 2008, Thompson and Vera were walking east on West Washington Street toward Belmont in Indianapolis when Vera was stopped by a police officer.<sup>1</sup> Vera was then arrested for violating the June 25, 2008, protective order because he was accompanying Thompson. On October 12, 2008, the State charged Vera with Class A misdemeanor invasion of privacy. A bench trial was held in November 2008, at which both Thompson and Vera testified. Vera was found guilty as charged and sentenced to 365 days with 357 days suspended. Vera now appeals.

### **Discussion and Decision**

Vera contends that the evidence is insufficient to support his conviction for invasion of privacy. Vera does not contest that he violated the protective order; rather, he argues that he “had [no] knowledge of the issuance of a Protective Order as the record shows that he was unable to read or understand English.” Appellant’s Br. p. 3. When reviewing the sufficiency of the evidence, appellate courts must only consider the probative evidence and reasonable inferences supporting the judgment. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It is the fact-finder’s role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient. *Id.* To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it “most favorably to the trial court’s ruling.” *Id.* Appellate courts affirm the conviction unless “no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* at 146-47 (quotation omitted). It is therefore not necessary that the evidence “overcome every reasonable hypothesis of

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<sup>1</sup> The arresting officer did not show up for trial. Instead, another officer, who arrived on the scene after Vera was already in handcuffs, testified.

innocence.” *Id.* at 147 (quotation omitted). “[T]he evidence is sufficient if an inference may reasonably be drawn from it to support the [judgment].” *Id.* (quotation omitted).

Indiana Code § 35-46-1-15.1(1) provides that a person who knowingly or intentionally violates a protective order to prevent domestic or family violence issued under Indiana Code chapter 34-26-5 commits invasion of privacy, a Class A misdemeanor. 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. Ind. Code § 35-41-2-2(b). As for whether Vera knowingly violated the June 25, 2008, protective order, Vera testified at trial that in June 2008, a paper was left at the door of his house bearing his name and Thompson’s name, but he did not know what the paper said because it was written in English. Tr. p. 34. As a result, Vera approached Thompson about the paper, but she said it was “nothing.” *Id.* Vera, however, was later arrested on July 9, 2008. Vera said he was in Thompson’s presence when he was arrested on July 9. Although Vera claimed at trial that he did not know why he was arrested on July 9 and points out that no charges were filed, Thompson testified at trial that Vera was arrested on July 9 for violating the protective order.<sup>2</sup> *Id.* at 10. Based on Vera’s July 9, 2008, arrest for violating the June 25, 2008, protective order, the trial court could reasonably infer that Vera knew about the existence of the protective order. The evidence is therefore sufficient to support Vera’s conviction for invasion of privacy.

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<sup>2</sup> After Vera’s July 9, 2008, arrest, Thompson tried to have the protective order dismissed but was unable to do so because she did not have proper identification. Thompson testified at trial that following Vera’s October 11, 2008, arrest, she secured proper identification and took steps on October 14, 2008, to have the protective order dismissed.

Affirmed.

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