



## STATEMENT OF THE CASE

Cameron Williams appeals his conviction for Criminal Recklessness, as a Class D felony, following a jury trial. He presents the following issues for our review:

1. Whether the State presented sufficient evidence to support his conviction.
2. Whether he is entitled to a new sentencing hearing because the trial court did not inquire whether he wanted to make any corrections to the presentence investigation report (“PSI”).

We affirm.<sup>1</sup>

## FACTS AND PROCEDURAL HISTORY

On June 20, 2007, Leonard Hayes, a security guard working at a building at 3737 North Meridian Street in Indianapolis, observed Williams fire a handgun into the air. Williams was standing in front of the building when he fired the shots, and, at that time, there were several people sitting outside an adjacent building. Hayes helped those people inside to safety, and Hayes then followed Williams towards Pennsylvania Street. Hayes called police, who arrived a short time later and arrested Williams.

The State charged Williams with two counts of carrying a handgun without a license, unlawful possession of a firearm by a serious violent felon, criminal recklessness, and being an habitual offender. The State dismissed the first two counts before trial; a jury convicted him on the unlawful possession and criminal recklessness charges; and Williams admitted to being an habitual offender. The trial court sentenced Williams to an aggregate twenty year sentence. This appeal ensued.

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<sup>1</sup> We granted Williams’ motion to proceed pro se in filing a Reply Brief, but denied his motion to strike the Brief of Appellant filed by his counsel. On June 25, 2008, we issued an Order instructing the State to provide Williams with a copy of its Brief of Appellee within five days, and we instructed Williams to file his Reply Brief within fifteen days thereafter. Williams did not timely file a Reply Brief.

## DISCUSSION AND DECISION

### Issue One: Sufficiency of the Evidence

Williams contends that the State did not present sufficient evidence to support his criminal recklessness conviction.<sup>2</sup> When reviewing the claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

To prove criminal recklessness, as a Class D felony, the State was required to prove that Williams, while armed with a deadly weapon, recklessly, knowingly, or intentionally performed an act that created a substantial risk of bodily injury to another person. Ind. Code § 35-42-2-2. Williams' sole contention on appeal is that the evidence is insufficient to show that his conduct created a substantial risk of bodily injury to another person. In particular, he maintains that there was no evidence "that the gun was fired in the direction of any person or that any person was sufficiently nearby to be placed in danger." Brief of Appellant at 8. We cannot agree.

In support of his contention, Williams cites to this court's opinion in Elliott v. State, 560 N.E.2d 1266 (Ind. Ct. App. 1990). In Elliott, the defendant was convicted for criminal recklessness after he fired a gun "upwards at approximately a 10 degree angle

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<sup>2</sup> Williams does not challenge the sufficiency of the evidence regarding his possession conviction.

towards adjacent uninhabited fields and woodlands.” Id. at 1267. While there were people in the vicinity, no one was in the line of fire. Id. On appeal, we held that the evidence was insufficient to show that the defendant had created a substantial risk of bodily injury.

But the State contends that the instant case is more analogous to Woods v. State, 768 N.E.2d 1024 (Ind. Ct. App. 2002). In Woods, the defendant was convicted for criminal recklessness after he fired a gun in a residential neighborhood while people were sitting on a nearby porch and children were playing and riding their bikes nearby. The evidence showed that the defendant fired six shots “in the direction of a vacant house across the street.” Id. at 1025. On appeal, the defendant cited to Elliott to support his contention that no substantial risk of bodily injury was created when he fired towards the vacant house because no one was in the “line of fire.” But this Court disagreed and held that Elliott was distinguishable. In particular, we held that the evidence was sufficient to support his criminal recklessness conviction because the defendant “fired the shots in a residential area” and “there were individuals near Woods’s line of fire.” Id. at 1028. We observed that “adults were sitting on a nearby porch and children were riding their bikes and playing outside of the house next door.” Id. We held that

[a] reasonable jury could conclude that a substantial risk of bodily injury arises when an intoxicated person fires several gunshots in a residential area in close proximity to adults and children. Further, it is not improbable that a bullet could have ricocheted and struck one of the nearby people or that a child could have ridden his or her bicycle into the line of fire.

Id.

Here, the evidence shows that Williams fired a gun into the air while standing on Meridian Street in Indianapolis, in the middle of the day, less than ten feet away from Hayes. Hayes testified that there were eight to ten people “sitting out in the front of the building” nearby at the time of the shooting, and Hayes helped move those people inside before he started to follow Williams. Transcript at 33. Hayes further testified that he saw Williams holding a black gun, and Hayes was “getting the people in[side] because there w[ere] kids and everybody was running everywhere. I was trying to get them in out of the way.” Id. at 41.

We agree with the State that the facts in this case are more analogous to Woods than to Elliott. A reasonable jury could conclude that a substantial risk of bodily injury arose when Williams fired gunshots in close proximity to adults and children on a busy street where several residences and businesses are located. See Woods, 768 N.E.2d at 1028. Further, it is not improbable that a bullet could have ricocheted and struck one of the people sitting nearby. See id. The State presented sufficient evidence to support Williams’ criminal recklessness conviction.

### **Issue Two: Sentencing**

Williams next contends that the trial court erred when it did not give him “the opportunity to review or to make corrections to the PSI” at sentencing. Brief of Appellant at 12. Williams further contends that there is no indication that the trial court considered the PSI at sentencing, as required by Indiana Code Section 35-38-1-8. But our review of the record shows that the trial court did consider the PSI. See Transcript at 105 ([COURT]: “The matters that you have raised in your pre-sentence investigation go

more to trial errors and not to sentencing matters.”). And Williams does not allege any prejudice as a result of being denied an opportunity to review the PSI prior to sentencing. On appeal, he does not identify any errors in the PSI that he would have corrected. As such, Williams’ contention on this issue is without merit.

Affirmed.

DARDEN, J., and BROWN, J., concur.