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**IN THE
COURT OF APPEALS OF INDIANA**

JERRAMY MARTIN,)
)
Appellant-Defendant,)
)
vs.) No. 49A02-1104-CR-297
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marc T. Rothenberg, Judge
Cause No. 49F09-0910-FD-90763

October 12, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Jerramy Martin¹ appeals his conviction for resisting law enforcement, as a Class D felony, following a bench trial. He presents a single issue for review, namely, whether the evidence is sufficient to support his conviction.² We affirm.

FACTS AND PROCEDURAL HISTORY

At 1:00 a.m. on October 26, 2009, Martin was driving eastbound on 10th Street in Indianapolis when he passed Indianapolis Metropolitan Police Department Officer Joshua Taylor, who was traveling westbound in his fully marked police vehicle. Officer Taylor noticed that Martin did not have his headlights on, so the officer flashed his spotlight at Martin “to get his attention to get him to turn his headlights on.” Transcript at 6-7. Martin did not turn on his headlights.

Officer Taylor immediately made a U-turn, “no less than a car length behind” Martin, and pulled in behind Martin as he turned south into an alley. *Id.* at 7. Officer Taylor pulled into the alley behind Martin and activated his red and blue lights. Taylor did not stop but continued down the alley, so the officer activated his audible siren. Martin continued southbound for two blocks before he stopped behind a home at 808 Emerson Avenue.³ After waiting for additional units to arrive, Officer Taylor approached Martin’s vehicle.

¹ According to the Pre-Sentence Investigation Report, Martin’s full name is Jerramy Demarcus Deonte Moore, but he is also known as Jerramy Moore and, as here, Jerramy Martin.

² At the same trial, Martin was also convicted of driving with a suspended license, a Class A misdemeanor. He does not appeal that conviction.

³ Martin contends on appeal that he pulled into his own driveway. Officer Taylor testified to the address where Martin pulled in, but the same address is not listed as his residence on the Pre-Sentence Investigation Report.

The State charged Martin with driving with a suspended license, a Class A misdemeanor, and resisting law enforcement, as a Class D felony. Following a bench trial, the trial court found Martin guilty on both counts. The court then sentenced Martin to Community Corrections for one and one-half years for resisting law enforcement and for one year for driving with a suspended license, to be served concurrently. The court further ordered 180 days of the aggregate sentence to be served on work release and then 365 days to be served on home detention. Martin now appeals his conviction for resisting law enforcement.

DISCUSSION AND DECISION

Martin contends that the evidence is insufficient to support his conviction for resisting law enforcement, as a Class D felony. When the sufficiency of the evidence to support a conviction is challenged, we neither reweigh the evidence nor judge the credibility of the witnesses, and we affirm if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Wright v. State, 828 N.E.2d 904, 905-06 (Ind. 2005). It is the job of the fact-finder to determine whether the evidence in a particular case sufficiently proves each element of an offense, and we consider conflicting evidence most favorably to the trial court's ruling. Id. at 906.

To prove resisting law enforcement, as a Class D felony, the State was required to show beyond a reasonable doubt that Martin “knowingly or intentionally” fled from a “law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer’s siren or emergency lights, identified himself or

herself and ordered the person to stop.” Ind. Code § 35-44-3-3(a)(3). The offense was raised to a class D felony based on the State’s allegation that he used a vehicle to commit the offense. Ind. Code § 35-44-3-3(b)(1)(A). Martin contends that the State did not show that he knowingly or intentionally fled from Officer Taylor. We cannot agree.

When Martin did not turn his lights on, Officer Taylor immediately made a U-turn and “got behind [Martin’s] vehicle as it turned south in the alley from 10th Street, west of Emerson.” Transcript at 7. He turned on his emergency lights and, when Martin did not stop, activated his audible siren “just south of 10th Street[.]” *Id.* at 8. Martin still did not stop until he had travelled two blocks from his entry into the alley and pulled into a driveway. Martin admits that he saw the emergency lights but insists that he was only two houses from where he eventually stopped. In essence, Martin asks that we give credibility to his testimony over Officer Taylor’s testimony on the distance Martin traveled after he saw the lights on. We may not do so. *Wright*, 828 N.E.2d at 906.

Taylor also argues that there is evidence showing the lack of an intent to flee, namely, that he did not accelerate. In support he relies on *Jones v. State*, 938 N.E.2d 1248, 1253 (Ind. Ct. App. 2010), where this court affirmed a conviction for resisting law enforcement where the defendant accelerated to flee an officer. But acceleration is not an element of the offense. The State need only have shown that Martin knowingly or intentionally failed to stop after Officer Taylor gave notice, through his emergency lights and audible siren, that he wanted Martin to stop. The State met that burden here.

And Martin maintains that the State did not prove knowing or intentional conduct because he did not “knowingly drive a meaningful distance after he became aware the

officer was attempting to pull him over[.]” Appellant’s Brief at 4. He relies on Woodward v. State, 770 N.E.2d 897, 901-02 (Ind. Ct. App. 2002), trans. denied, in which this court affirmed a resisting law enforcement conviction where the defendant drove past several businesses before eventually stopping. But, again, the State need only have shown that Martin knowingly or intentionally refused to stop, not that he traveled a great distance to do so. See Ind. Code § 35-44-3-3. And, as discussed above, the trial court reasonably inferred that Martin was aware of Officer Taylor’s attempt to stop well before Martin actually stopped. Further, Woodward holds that the defendant may not choose the location for the stop. 770 N.E.2d at 902.

Martin’s arguments amount to a request that we reweigh the evidence, which we cannot do. See Wright, 938 N.E.2d at 1251. The evidence most favorable to the judgment and the inferences from that evidence show that Martin drove two blocks after he saw Officer Taylor turn into the alley with his emergency lights illuminated and that the officer then also activated his emergency siren. Thus, the evidence supports Martin’s conviction for resisting law enforcement, as a Class D felony.

Affirmed.

RILEY, J., and MAY, J., concur.