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IN THE
COURT OF APPEALS OF INDIANA

JOHN W. WILLIAMS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1009-CR-555
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marc T. Rothenberg, Judge
Cause No. 49F09-1004-FD-28490

April 28, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

John W. Williams ("Williams") appeals following his convictions for Criminal Recklessness, as a Class D Felony,[1] and Disorderly Conduct, as a Class B Misdemeanor.[2] He raises one issue for our review, whether there is sufficient evidence to sustain his conviction for Criminal Recklessness.

We affirm.

Facts and Procedural History

On April 5, 2010, and April 6, 2010, Bernard Lockett ("Lockett") and his girlfriend, Zabrina Jackson ("Jackson"), observed a woman flagging down cars in front of their home on North Tibbs Avenue in Indianapolis. On April 6, 2010, the woman was accompanied by Williams. Lockett called the Indianapolis Metropolitan Police Department because he did not want the woman or Williams on his property. Officer Lauren Popovich responded, instructed Williams to stay away from Lockett's residence and seek alternate routes through the area if necessary, and told Lockett to call 911 if further incidents occurred.

On April 7, 2010, at around 5:00 P.M., Lockett and Jackson were walking near their home, headed eastward on 12th Avenue to pick up their children from a daycare, when Williams approached them, travelling westward on 12th Avenue. Though neither Lockett nor Jackson spoke to him, Williams lunged at Lockett, shouted a profanity at him, drew an open pocketknife from his pocket, and swiped the knife at Lockett. Lockett picked up a nearby

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[1] Ind. Code § 35-42-2-2. He does not challenge his conviction for Disorderly Conduct.
[2] I.C. § 35-45-1-3.

brick to defend himself. Jackson retreated several feet and called 911.

Police officers, including Popovich, Sergeant Michael Himmel, and Officer Brian Roemke, arrived on scene very soon thereafter. Sergeant Himmel was first to arrive at the scene and found Williams arguing loudly with Lockett and Jackson. Though Lockett and Jackson calmed down quickly during their discussion with the officers, Williams kept yelling, calling Lockett a "snitch," shouting further profanities, and insulting Lockett for calling the police instead of resolving the problem in some other fashion. (Tr. 221.) Officer Roemke arrested Williams.

On April 9, 2010, Williams was charged with Criminal Recklessness and Disorderly Conduct. A jury trial was conducted on August 11, 2010, at the conclusion of which the jury returned guilty verdicts against Williams on both counts. On August 19, 2010, the trial court entered judgments of conviction against Williams, and sentenced him to concurrent sentences of 725 days imprisonment for Criminal Recklessness and 90 days imprisonment for Disorderly Conduct, with 135 days of credit time.

This appeal followed.

Discussion and Decision

On appeal, Williams challenges only the sufficiency of the evidence as to the recklessness of his conduct when he swiped his knife at Lockett. Specifically, Williams contends that the State failed to introduce evidence from which a reasonable jury could find that Williams was close enough to Lockett such that swiping the knife posed a substantial risk of bodily injury to Lockett.

When reviewing the sufficiency of the evidence, we consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh evidence. Id. We will affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). "The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict." Id. (quoting Pickens v. State, 751 N.E.2d 331, 334 (Ind. Ct. App. 2001)).

To convict Williams of Criminal Recklessness, as a Class D felony, the State was required to prove beyond a reasonable doubt that, by swiping his knife at Lockett, Williams recklessly, knowingly, or intentionally created a substantial risk of bodily injury to Lockett while armed with a deadly weapon, that is, the pocketknife. Ind. Code 35-42-2-2(b)(1), (c)(2)(A); App. 19.

Here, the evidence most favorable to the verdict indicates that Williams lunged at Lockett, then swiped his knife at Lockett, while standing a few feet away from him. Williams argues that there was "no risk Lockett could have been injured" because Williams was two-and-one-half to five feet from Lockett, seeking to excuse his conduct by arguing that he "brandish[ed] a small knife from a safe distance away." (Appellant's Br. 6.) Lockett indicated during trial that he could not readily ascertain distances, but guessed that the knife blade came within two feet of his body. During the trial, one of the prosecuting attorneys stood at various distances from Lockett, and at one point, Lockett indicated that the attorney

was the same distance from him as Williams was on the day of the attack. Williams himself testified that he was close enough to Lockett to swat away Lockett's hand.

All of this allows a reasonable jury to infer that Williams's swiping of his knife happened sufficiently close to Lockett to give rise to a substantial risk of bodily harm. Williams's argument to the contrary is a request that we reweigh evidence, which we cannot do.

Affirmed.

FRIEDLANDER, J., and BROWN, J., concur.