

Darnell Wilson (“Wilson”) was convicted in Hamilton Superior Court of Class D felony theft and sentenced to serve three years. Wilson appeals and argues that the evidence is insufficient to establish that he committed theft. We affirm.

Facts and Procedural History

On April 21, 2006, James Olive (“Olive”), an employee of Gaylor Electric, was supervising electrical installation at a new Best Buy store on Michigan Road in Hamilton County. While working in the loading dock area, Olive saw three black males exiting a construction trailer carrying spools of wire. Olive noted that the men were wearing yellow hard hats instead of the blue hard hats issued by Gaylor. As Olive approached the construction trailer, the men saw him, got into a van, and drove away. Olive called 911 and reported the incident.

Shortly thereafter, the van was stopped by a Hamilton County sheriff’s deputy. One of the men in the van was identified as Wilson. Officers found spools of wire and three construction hard hats inside the van. Two of the hard hats were yellow and one was white. Wilson admitted that he was at the Best Buy construction site, but denied taking the wire. Tr. p. 109.

On April 24, 2006, Wilson was charged with Class D felony theft. A jury trial commenced on August 8, 2006, and Wilson was found guilty as charged. He was then sentenced to serve three years in the Indiana Department of Correction. Wilson now appeals.

Standard of Review

When we review a 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 judgment 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.

Discussion and Decision

Wilson contends that the evidence is insufficient to support his theft conviction. To convict a person of Class D felony theft, the State must prove that the defendant knowingly or intentionally exerted “unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use[.]” Ind. Code § 35-43-4-2 (2004).

At trial, Olive testified that he saw three men “wearing yellow hard hats” carrying spools of wire. Tr. p. 60. However, one white and two yellow hard hats were found inside the van. Wilson argues that because only men wearing yellow hard hats were carrying the wire, he must have been wearing a white hard hat, and therefore, he was not involved in the theft of the spools of wire. Also in support of his argument, Wilson cites his own statement denying his involvement in the offense.

Olive testified that he saw three black males carrying spools of wire get into a van and drive away. Tr. pp. 60-62. Officers stopped the van shortly thereafter and found

spools of wire and three hard hats inside. Wilson was one of the individuals in the van, and he admitted to being at the Best Buy construction site. Tr. p. 109.

The inconsistency between Olive's testimony concerning the color of the hard hats and the three hard hats found inside the van does not render the evidence insufficient to sustain Wilson's theft conviction as it was simply a factual issue for the jury to resolve. Furthermore, Wilson's argument is nothing more than a request to reweigh the evidence and judge the credibility of the witnesses, which we will not do.

Affirmed.

DARDEN, J., and KIRSCH, J., concur.