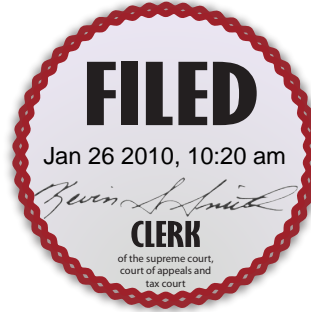


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

MELISSA A. GOEN,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 28A01-0908-CR-398

APPEAL FROM THE GREENE CIRCUIT COURT
The Honorable Erik C. Allen, Judge
Cause No. 28C01-0809-FD-165

January 26, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Melissa A. Goen appeals her conviction for Escape, as a Class D felony,¹ alleging there is insufficient evidence supporting her conviction. We affirm.

Facts and Procedural History

On August 14, 2008, Goen, as a part of her sentence for Possession of a Schedule IV Drug,² was sentenced to sixty days of home detention by the Lawrence Superior Court. The conditions for her home detention included:

28. I understand that a Correctional Officer is the only person that may authorize a leave from my residence. I understand that I shall speak directly to a Correctional Officer for such request and authorization. I understand that verbal messages left with other Community Corrections Staff will not be considered authorization to leave my residence or change schedule.

29. I understand that any emergency deviation from my schedule must be unquestionably an emergency, such as a fire, hospitalization etc. Only those situations involving participants and their dependents will constitute an emergency. If an emergency arises, I understand that I must contact my Correctional Officer as soon as possible. Failure to contact within a reasonable amount of time will constitute a violation.

State's Exhibit 2 at 4. Goen's home detention started on September 10, 2008, at her current residence in Greene County.

On Thursday September 25, 2008, Goen called her home detention officer, Greg Roudebush, to set her approved schedule for the week. Goen requested to go to Bedford that Saturday to do laundry. Roudebush declined to permit her to go to Bedford and told her to stay in Bloomfield because it would be easier for him to monitor her. They agreed that she

¹ Ind. Code § 35-44-3-5(b).

² Ind. Code § 35-48-4-7.

would go to Whites Laundry in Bloomfield from 4:30 p.m. to 7:30 p.m. That Saturday, September 27, 2008, at approximately 5:00 p.m., Roudebush decided to stop by the particular laundromat to check on Goen but she was not there. After waiting an hour for Goen to arrive, Roudebush left and called Goen's home without success. When Roudebush did speak with Goen that evening, Goen said that she had changed her mind and went down the road to her aunt's house to do laundry.

Due to this unauthorized schedule deviation, Roudebush chose to have Goen interviewed regarding the incident. Goen agreed to participate in the interview at the local Sheriff's Department and signed a form acknowledging and waiving her Miranda rights.³ During the interview, Goen provided a different explanation as to her absence from the approved laundromat. She alleged that she was scared that her uncle, Ray Nicholson, might have congestive heart failure and she went with him to a pharmacy in Bedford to pick up his medicine.

Goen: He [Nicholson] had to go get his medicine in Bedford and we're always scared cause he's always, uh-

Detective: So you went to Bedford?

Goen: Yeah. To get his medicine. And we had to sit with him, wait to get his medicine, then I went to the Dollar Store in Oolitic to get my little boy pull-ups and, uh, wipes and stuff like that. Then we, uh, I went home.

Detective: And you knew you weren't supposed to do that, right?

Goen: Yeah. I know. Yeah.

³ See Miranda v. Arizona, 384 U.S. 436, 479 (1966).

Detective: So why did you do it?

Goen: I don't. I don't know. I told Ray I wasn't supposed to go to Bedford, but – you know. Yeah, I violated it.

State's Ex. 5.

On September 30, 2008, the State charged Goen with Escape, as a Class D felony. After a jury trial, Goen was found guilty as charged. The trial court sentenced Goen to 120 days in jail.

Goen now appeals.

Discussion and Decision

Goen contends that there is insufficient evidence to support her conviction because the State failed to prove that she knowingly or intentionally violated her home detention. When reviewing the sufficiency of the evidence to support a conviction, we will consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We will not assess the credibility of the witnesses or reweigh the 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.

For the State to convict Goen for Escape, as charged, it was required to prove that Goen knowingly or intentionally violated the conditions of her home detention. See Ind. Code § 35-44-3-5. Here, evidence was presented that Goen admittedly deviated from her approved schedule while on home detention. She stated in her later interview that she understood that she was not permitted to do so. As for the reason she failed to abide by her

approved schedule, Goen provided contradictory explanations, one of which was to assist her uncle in obtaining medicine from a pharmacy. However, even considering her contention that the situation was an emergency due to the failing health of her uncle, the explanation also included an additional unapproved stop in another town where Goen purchased items at a store. This is sufficient evidence from which a reasonable jury could conclude that Goen knowingly violated the conditions of her home detention.

Affirmed.

BAKER, C.J., and ROBB, J., concur.