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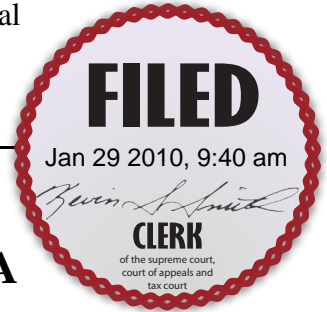
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**IN THE
COURT OF APPEALS OF INDIANA**

CHANDLER BUTLER,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 49A05-0907-CR-378

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven Eichholtz, Judge
The Honorable Peggy Ryan-Hart, Commissioner
Cause No. 49G23-0804-FC-80261

January 29, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Chandler Butler challenges the sufficiency of evidence to support his conviction for class C felony carrying a handgun without a license. We affirm.

At 2:50 a.m. on April 12, 2008, Indianapolis Metropolitan Police Officer Kevin Larussa responded to a dispatch reporting a possible carjacking in front of Butler's Indianapolis residence. When Officer Larussa turned his patrol car onto Butler's street and approached Butler's property, his headlights shone on Butler, who walked over and threw a "dark object" into a bush in a neighbor's yard. Tr. at 40, 50, 94-95. Officer Larussa exited his patrol car, identified himself to Butler, and placed Butler in handcuffs. A back-up officer placed Butler's companion in handcuffs. Less than one minute later, Larussa searched the bush and found only one item: a black Taurus .357 magnum handgun registered to Butler's brother, who was not present at that time. *Id.* at 51-52.

On April 14, 2008, the State charged Butler with one count of class A misdemeanor carrying a handgun without a license and one count of class C felony carrying a handgun without a license.¹ A bifurcated jury trial ensued. During the first phase, on January 15, 1999, the jury found Butler guilty of class A misdemeanor carrying a handgun without a license. During the second phase, held March 18, 2009, Butler admitted to having a previous conviction for carrying a handgun without a license, and the jury found him guilty of the class C felony enhancement.

On appeal, Butler contends that the evidence is insufficient to sustain his conviction.

¹ See Ind. Code § 35-47-2-23(c)(2)(A)(i) (stating that carrying handgun without a license is class C felony if person has prior conviction of any offense under this subsection). On January 5, 1999, and February 4, 2000, Butler had been convicted of carrying a handgun without a license. The 2000 conviction included a class C felony enhancement for the 1999 conviction. *Id.*

When reviewing sufficiency of evidence claims, we neither reweigh evidence nor judge witness credibility; rather, we consider only the evidence and reasonable inferences most favorable to the verdict. *Campbell v. State*, 841 N.E.2d 624, 630 (Ind. Ct. App. 2006). We will affirm if substantial evidence of probative value exists to support the verdict. *Id.* If a conviction is based on circumstantial evidence, we will not disturb it if the trier of fact could reasonably infer from the evidence presented that the defendant is guilty beyond a reasonable doubt. *Id.*

Indiana Code Section 35-47-2-1(a) states that “a person shall not carry a handgun . . . on or about the person’s body, except in the person’s dwelling, on the person’s property or fixed place of business, without a license.” Butler argues that the evidence fails to establish that he is the person who placed his brother’s handgun in the bush. We disagree. Officer Larussa testified that as he drove his patrol car toward Butler, he could see with his headlights as Butler threw a dark object into a bush. Tr. at 40-41, 50. Less than one minute later, he recovered a black Taurus .357 magnum handgun from the same bush. *Id.* at 44. Officer Larussa testified that he searched the bush and found no other items in the bush or on the ground in that area. *Id.* at 41-42, 44. The weapon was registered to Butler’s brother, who was not present. To the extent Butler relies on conflicting testimony regarding the timing of the handgun’s placement in the bush and the identity of its possessor, he merely invites us to reweigh evidence and judge witness credibility, which we may not do. The evidence most favorable to the verdict is sufficient to support Butler’s conviction. *See Campbell*, 841 N.E.2d at 626 (holding evidence sufficient to sustain conviction for carrying handgun

without a license where police spotlight showed defendant throw shiny object under vehicle and police recovered handgun from underneath vehicle). Accordingly, we affirm.

Affirmed.

RILEY, J., and VAIDIK, J., concur.