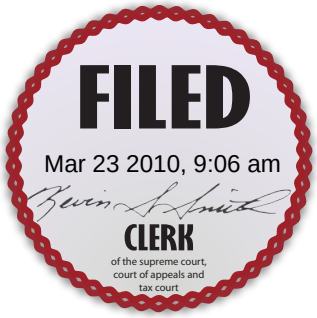

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IN THE
COURT OF APPEALS OF INDIANA

THURMAN JONES,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0911-CR-1117
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Clark H. Rogers, Judge
The Honorable Melissa Kramer, Master Commissioner
Cause No. 49G17-0905-CM-48069

March 23, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Thurman Jones appeals his conviction for Invasion of Privacy,[1] a class A misdemeanor, challenging the sufficiency of the evidence. Specifically, Jones contends that the conviction must be set aside because he was not provided with adequate notice of the protective order hearing. Finding the evidence sufficient, we affirm the judgment of the trial court.

FACTS

On September 2, 2008, D.Y. obtained an ex parte protective order against Jones. The order, which was effective for one year, contained a no-contact order. Moreover, Jones was "restrained from committing further acts of abuse or threats of abuse to [D.Y.]." Ex. 1. The protective order indicated that a hearing was set for September 30, 2008.

On September 16, 2008, Indianapolis Police Officer Matthew McDonald went to D.Y.'s Indianapolis residence and explained the contents of the protective order to Jones. Jones responded that he understood and left the house. However, Jones and D.Y. never stopped communicating, and Jones continued to live at the residence. Neither Jones nor D.Y. appeared for the September 30 hearing.

[1] Ind. Code § 35-46-1-15.1.

On May 15, 2009, Indianapolis Police Officer Clayton Goad was dispatched to D.Y.'s residence in response to a report of a disturbance. Jones was present and became very loud and argumentative with Officer Goad. D.Y. told Officer Goad that she wanted Jones to leave because he "hit and shattered" one of her mirrors. Tr. p. 19-20. Officer Goad noticed some blood, and D.Y. explained that the glass had cut Jones's hand and his blood had splattered on her.

Jones was arrested and charged with Count I, battery by bodily waste, a class A misdemeanor, and Count II, invasion of privacy, a class A misdemeanor. Following a bench trial on September 21, 2009, Jones was acquitted on Count I and found guilty on Count II. Jones was sentenced to 365 days with 361 days suspended to probation. He now appeals.

DISCUSSION AND DECISION

In addressing Jones's claim that the evidence was insufficient to support his conviction, we do not reweigh the evidence or judge the credibility of the witnesses. Williams v. State, 873 N.E.2d 144, 147 (Ind. Ct. App. 2007). We will consider only the evidence most favorable to the judgment together with the reasonable inferences to be drawn therefrom. Robinson v. State, 835 N.E.2d 518, 523 (Ind. Ct. App. 2005). We will affirm the conviction if sufficient probative evidence exists from which the fact finder could find the defendant guilty beyond a reasonable doubt. Williams, 873 N.E.2d at 147.

To support Jones's conviction for invasion of privacy, the State was required to prove that he "knowingly or intentionally violat[ed] a protective order to prevent

domestic or family violence. . . .” I.C. § 35-46-1-15.1; see also Tharp v. State, No. 49A02-0905-CR-394, slip op. at 4 (Ind. Ct. App. Feb. 18, 2010).

When determining whether a party has committed the offense of invasion of privacy, we do not consider whether the victim knowingly ignored the protective order but, rather, whether the defendant knowingly violated the protective order. Dixon v. State, 869 N.E.2d 516, 520 (Ind. Ct. App. 2007).

In this case, Jones argues that his conviction must be set aside because

> there is no evidence that he received notice of the protective order hearing. The portion of the notice that would show whether and to what address it had been mailed is redacted, and there is nothing to indicate that the police officer that informed . . . Jones about the protective order gave him a copy of that notice or informed him of the hearing.

Appellant’s Br. p. 9.

Notwithstanding Jones’s contentions, we note that a police officer’s alleged failure to advise the defendant of a hearing date on the protective order is not an element of the charged offense. Moreover, Officer McDonald testified that he showed Jones the protective order, which included the September 30, 2008, hearing date and the contents of the order. Tr. p. 41. Officer McDonald specifically informed Jones that he was serving him with the protective order and told him that “he was not to have any contact with [D.Y.], indirectly or directly and that he was no longer . . . able to stay at that residence.” Id. In light of this evidence, the trial court could reasonably conclude that Jones received notice of the hearing when Officer McDonald showed him the contents of the protective order. See Hendricks v. State, 649 N.E.2d 1050, 1052 (Ind. Ct. App. 1995) (upholding

defendant's conviction for invasion of privacy when the evidence established that the police officer verbally notified him of the protective order). That said, because the evidence demonstrated that Jones returned to D.Y.'s residence and smashed a mirror while the protective order was still in effect,[2] we conclude that the evidence was sufficient to support Jones's conviction for invasion of privacy. See Dixon, 869 N.E.2d at 520 (holding that the defendant's return to a residence in violation of the protective order was sufficient to support the conviction for invasion of privacy).

The judgment of the trial court is affirmed.

DARDEN, J., and CRONE, J., concur.

[2] The trial court ultimately dismissed the protective order on May 19, 2009. Tr. p. 58.