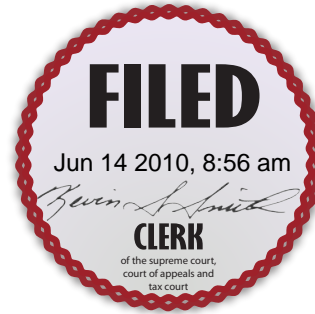


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

DIOSHA L. LAMB,)
)
Appellant-Defendant,)
)
vs.) No. 02A03-0912-CR-591
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Marcia L. Linsky, Magistrate
Cause No. 02D04-0904-CM-2542

June 14, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Diosha L. Lamb appeals her conviction for invasion of privacy, as a Class A misdemeanor, following a bench trial. Lamb raises two issues for our review, which we restate as the following dispositive issue: whether the State presented sufficient evidence to support her conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On July 25, 2007, Ondrayco Greene, the father of two children with Lamb, obtained an ex parte protective order against Lamb after she had threatened him. The protective order stated, in relevant part, as follows:

1. [Lamb] is hereby enjoined from threatening to commit or committing acts of domestic or family violence, stalking, or a sex offense against [Greene]
2. [Lamb] is prohibited from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with [Greene].

* * *

4. [Lamb] is ordered to stay away from the residence, school, and/or place of employment of [Greene]. This Order does not prohibit either party from attending work and/or school if the parties are employed by the same employer and/or attend the same school. The Order simply prohibits direct contact by [Lamb] while the parties are at work and/or school or elsewhere. . . .

Appellant's App. at 16-17. A police officer served Lamb with the protective order the day after it was issued.

In October of 2008, a friend of Lamb's moved next door to Greene. The following March, Greene was sitting on his front porch when he saw Lamb park across

the street from his house. Lamb exited her car with their children and walked across the street toward Greene. Lamb “called [Greene] a bitch, flipped [him] off, and walked past” him to her friend’s house. Transcript at 10. Greene went inside his home and called the police.

On April 30, 2009, the State charged Lamb with invasion of privacy, as a Class A misdemeanor. At the ensuing bench trial, the State called Greene as a witness, and he recounted the above-stated facts. The State also called a neighbor of Greene’s, Loretta Dansby, who corroborated Greene’s testimony. Lamb testified in her own defense and denied interacting with Greene. The court found Lamb guilty as charged and sentenced her accordingly. This appeal ensued.

DISCUSSION AND DECISION

On appeal, Lamb contends that the State did not present sufficient evidence to show that she violated the protective order. In particular, she asserts that the word “contact” implies something “more than mere presence,” and that the State’s only evidence shows that she only happened to be physically near Greene on the date in question. See Appellant’s Br. at 7. In the alternative, Lamb argues that the protective order, and the statute on which it is based, is unconstitutionally vague because it allegedly does not “specify that mere presence alone, without any form of interaction, is prohibited conduct.” Id. at 13.

When reviewing 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 that may be drawn from that evidence 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. In order to convict Lamb of invasion of privacy, the trial court had to determine that she knowingly or intentionally violated the protective order. See Ind. Code § 35-46-1-15.1.

Both of Lamb's arguments are premised on the faulty assumption that the trial court questioned the veracity of the State's evidence regarding Lamb's behavior once she parked her vehicle in front of Greene's house. It is true that the trial court, in entering its judgment against Lamb, stated that her mere presence at the location was enough to violate the protective order. But the trial court never said that the State's evidence was somehow questionable or not persuasive, or that Lamb's testimony was deserving of credit. Absent an express refutation by the trial court of the State's evidence, we are obliged to consider that evidence so long as it is "substantial evidence of probative value [that] support[s] the conviction." See id.; see, e.g., Kribs v. State, 917 N.E.2d 1249, 1251 (Ind. Ct. App. 2009) (reversing the defendant's conviction for knowingly possessing a firearm where, in finding the defendant guilty, the trial court expressly stated that it believed the defendant's testimony that he "didn't remember" that he had the firearm in his possession).

Here, Lamb was "ordered to stay away from the residence," and the protective order also plainly prohibited Lamb from "directly or indirectly communicating with [Greene]." Appellant's App. at 16-17. At her bench trial, the State's witnesses testified

that Lamb approached Greene's residence, and Greene testified that Lamb directly communicated obscenities at him. Greene's testimony was corroborated by Dansby. Thus, the State presented sufficient evidence that Lamb committed invasion of privacy, as a Class A misdemeanor, and we affirm that conviction.

Affirmed.

VAIDIK, J., and BROWN, J., concur.