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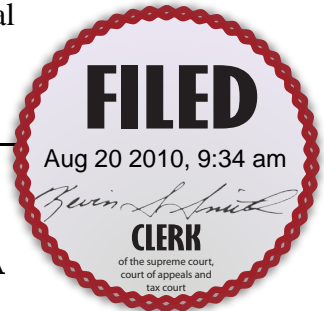
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**IN THE
COURT OF APPEALS OF INDIANA**

DONALD CAREW,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 49A02-1001-CR-27

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
Cause No. 49F10-0909-CM-078838

August 20, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Donald Carew appeals his conviction for Public Intoxication, a Class B misdemeanor, following a bench trial. He presents a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On September 8, 2009, Carew and some other men were standing on the corner at the intersection of Pennsylvania Avenue and 14th Street in Indianapolis when Indianapolis Metropolitan Police Department Officer Miguel Roa responded to that location on a report of a disturbance. When Officer Roa arrived, all of the men other than Carew fled the scene. Officer Roa observed Carew, who was shirtless, to be “very unsteady on his feet on the sidewalk.” Transcript at 8. After Officer Roa asked Carew for his identification, he attempted to give a response, but Officer Roa could not understand his response because his speech was so slurred.

Because Carew was so unsteady on his feet, Officer Roa assisted Carew in sitting down. Officer Roa smelled a “strong odor of alcoholic beverage coming from his person.” Id. at 9. In addition, Carew’s eyes appeared glassy and red, and he seemed to Officer Roa to be having difficulty following his instructions. Officer Roa observed that Carew appeared to be so intoxicated that “it was like he wasn’t there[.]” Id.

The State charged Carew with public intoxication, a Class B misdemeanor. Following a bench trial, the trial court found Carew guilty as charged and sentenced him to 180 days. This appeal ensued.

DISCUSSION AND DECISION

Carew contends that the State did not present sufficient evidence to support his conviction. When reviewing the 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.

To prove public intoxication, the State was required to prove that Carew was in a public place or a place of public resort in a state of intoxication caused by his use of alcohol or a controlled substance. See Ind. Code § 7.1-5-1-3. On appeal, Carew maintains that the evidence is insufficient to show that he was intoxicated. He does not challenge the sufficiency of the evidence with respect to whether he was in a public place at the time of his arrest.

Indiana Code Section 9-13-2-86 defines “intoxicated” as:

[U]nder the influence of:

- (1) alcohol;
- (2) a controlled substance (as defined in IC 35-48-1);
- (3) a drug other than alcohol or a controlled substance; or
- (4) a combination of alcohol, controlled substances, or drugs;

so that there is an impaired condition of thought and action and the loss of normal control of a person’s faculties.

Impairment can be established by evidence of: (1) the consumption of significant amounts of alcohol; (2) impaired attention and reflexes; (3) watery or bloodshot eyes; (4) the odor of alcohol on the breath; (5) unsteady balance; (6) failure of field sobriety tests; (7) slurred speech. Fields v. State, 888 N.E.2d 304, 307 (Ind. Ct. App. 2008).

Here, the State presented evidence that Carew had “glassy and red” eyes, an odor of alcohol, and slurred speech. In addition, Carew was very unsteady on his feet. On appeal, Carew maintains that those symptoms of his alleged intoxication, other than the odor of alcohol, were side effects of Prozac, which is prescribed for him. And Carew asserts that there could be other explanations for the odor of alcohol other than his consumption of alcohol, which he denies. Carew’s contentions on appeal amount to a request that we reweigh the evidence, which we will not do. The evidence is sufficient to support Carew’s conviction for public intoxication.

Affirmed.

BAKER, C.J., and MATHIAS, J., concur.