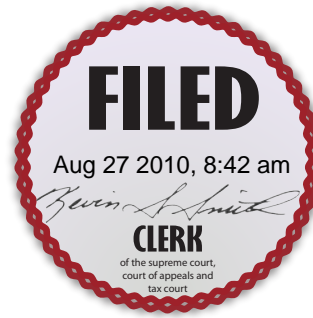


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

KATINA STARKS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 02A05-1001-CR-27

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Kenneth R. Scheibenberger, Judge
Cause No. 02D04-0902-FD-164

August 27, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Katina Starks (“Starks”) was found guilty in Allen Superior Court of Class D felony theft. The trial court sentenced Starks to a term of one and a half years. Starks appeals and argues that the evidence presented was not sufficient to support her conviction of Class D felony theft.

We affirm.

Facts and Procedural History

Starks entered into a contract to purchase furniture from Aaron’s Rental. The contract called for thirty-six semi-monthly payments. After making thirty payments, Starks fell behind on her account. Jermaine Cornwell, an account manager for Aaron’s Rental, contacted Starks with a plan that called for Starks to pay him \$300, or approximately half of the remaining debt, and he would take care of the remaining balance. Starks agreed to the plan and paid him \$300. Cornwell told her he would return with a receipt and that she should not come to the store. Cornwell then paid off the remaining balance with a stolen credit card.

Aaron’s Rental learned of this transaction and began an investigation. The general manager spoke with Starks who admitted to giving money to Cornwell, acknowledging to the general manager that the transaction “wasn’t right.” Tr. p. 90.

On February 19, 2009, the State charged Starks with Class D felony theft. On November 3, 2009, a jury found Starks guilty as charged. On November 30, 2009, the trial court sentenced Starks to a term of one and a half years, with one year suspended to probation and the executed portion to be served on home detention. Starks now appeals.

Discussion and Decision

Starks argues that the evidence presented at trial was not sufficient to support her conviction for Class D felony theft. When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict 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. If inferences may be reasonably drawn that enable the trier of fact to find the defendant guilty beyond a reasonable doubt, then circumstantial evidence will be sufficient. Id.

Under Indiana Code section 35-43-4-2 (2004), “[a] person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class D felony.” Indiana Code section 35-41-2-4 (2004), “(a) person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense. . . .” In determining whether a person aided another in the commission of a crime, we consider: (1) presence at the scene of the crime; (2) companionship with another engaged in criminal activity; (3) failure to oppose the crime; and (4) a defendant’s conduct before, during, and after the occurrence of the crime. Herron v. State, 808 N.E.2d 172, 175-76 (Ind. Ct. App. 2004).

Starks contends that she did not exert unauthorized control over Aaron's Rental currency or miscellaneous merchandise. However, it is undisputed that Cornwell pleaded guilty to theft. He testified that he offered to pay half of the amount she owed and she would pay the other half. Cornwell stated that the deal was done "under the table" or "(n)ot at the store, not at the job, you know - - - outside of work." Tr. p. 65. After receiving \$300 from Starks, Cornwell paid off her outstanding balance in full using a stolen credit card.

The general manager of Aaron's Rental testified that during his investigation after discovering Cornwell's improper credit card use he spoke with Starks. He stated that when asked about the transaction, Starks said that she "knew it wasn't right, but [she] needed to get out and be done from [her] payments, so it was an option that [she] took advantage of." Tr. p. 90.

Starks knew that the Cornwell's arrangement was improper and proceeded nevertheless. Starks testified that Cornwell had told her that if she gave him \$300 then he would waive the rest of her payments. Tr. p. 123. Without Starks' acquiescence and assistance, Cornwell would have been unable to improperly use a credit card to fraudulently pay off the remaining balance of Starks' account and deprive Aaron's Rental of the remaining payments. If Aaron's Rental had not noticed the fraudulent payment, then Starks would have benefited from Cornwell's fraud.

The evidence presented at trial was sufficient to support Starks' conviction for Class D felony theft.

Affirmed.

BAKER, C.J., and NAJAM, J., concur.