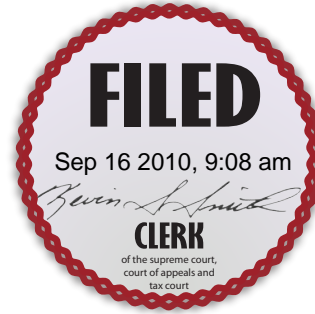


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

ATTORNEYS FOR APPELLEE:

TIMOTHY J. BURNS
Indianapolis, Indiana

GREGORY F. ZOELLER
Attorney General of Indiana

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

AARON SPEARS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-1001-CR-70

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable John J. Boyce, Judge Pro Tempore
Cause No. 49F08-0907-CM-062400

September 16, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Aaron Spears appeals his conviction for Class A misdemeanor invasion of privacy. We find sufficient evidence to sustain his conviction and affirm the judgment of the trial court.

Facts and Procedural History

Rowena Webb is the mother of Spears' son.

In March 2009, Webb obtained a civil protective order against Spears. The order prohibited Spears from "harassing, annoying, telephoning, contacting or directly or indirectly communicating" with Webb, though it permitted him to communicate through a neutral third party in regard to their common child. State's Ex. 1. In April 2009, the Marion County Sheriff's Department delivered a copy of the protective order to Spears' home address. Spears was also served with the protective order at a court hearing.

Spears called Webb's cell phone several times on June 19 and 20, 2009. Webb did not answer. Spears left approximately five voicemail messages. He told Webb, among other things, that she "can't keep [their] son from him." Tr. p. 29.

In addition, Spears called and left messages for Webb's sister, Nedra. Spears instructed Nedra, "[T]ell your sister she better not go through with [the civil protective order] or I'll kill all of you." *Id.* at 74. He also ranted about his relationship with Webb and at one point noted that he liked to have sex with Webb on her mother's couch.

The State charged Spears with Class A misdemeanor invasion of privacy. The State alleged that Spears, on or about June 19, "did knowingly violate an order of protection that is: a protective order issued to prevent domestic or family violence . . .

which was issued to protect Webb, Rowena, and furthermore, did so by engaging in the following conduct: calls to phone.” Appellant’s App. p. 12. Spears was tried to the bench and found guilty. He now appeals.

Discussion and Decision

Spears argues that the State produced insufficient evidence to sustain his conviction.

Our standard of review for sufficiency claims is well settled. In reviewing the sufficiency of the evidence, this court does not reweigh the evidence or assess the credibility of witnesses. *Davis v. State*, 791 N.E.2d 266, 269 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence most favorable to the judgment, together with all reasonable and logical inferences drawn therefrom. *Id.* at 269-70. The conviction will be affirmed if there is substantial evidence of probative value to support the conclusion of the trier of fact. *Id.* at 270.

Indiana’s invasion of privacy statute provides that “[a] person who knowingly or intentionally violates: . . . a protective order to prevent domestic or family violence . . . commits invasion of privacy, a Class A misdemeanor.” Ind. Code § 35-46-1-15.1; *Dixon v. State*, 869 N.E.2d 516, 520 (Ind. Ct. App. 2007).

We find sufficient evidence to sustain Spears’ conviction for invasion of privacy. Webb obtained a civil protective order against Spears. The order prohibited Spears from “telephoning, contacting or directly or indirectly communicating” with Webb except through a third party in regard to their son. The order was delivered to Spears’ home, and Spears was served with the order personally in court. The evidence most favorable to the

verdict reveals that Spears called Webb and left several messages on her cell phone. Spears also called and left messages for Webb's sister, instructing her to relay threats to Webb. These facts together sustain a finding that Spears was aware of the civil protective order but knowingly violated it by telephoning and indirectly communicating with the protected person. We therefore find sufficient evidence to sustain Spears' conviction.

Affirmed.

MAY, J., and ROBB, J., concur.