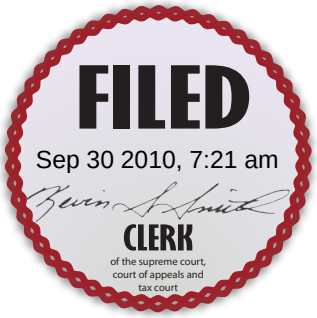

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IN THE
COURT OF APPEALS OF INDIANA

SHAWN DAVIS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1002-CR-70
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable David J. Certo, Judge
Cause No. 49G21-0911-CM-97172

September 30, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Shawn Davis ("Davis") appeals from a conviction for Invasion of Privacy,[1] as a Class A misdemeanor, raising for our review the single issue of whether the evidence was sufficient to support the judgment. We affirm.

Facts and Procedural History

On November 24, 2009, Officer John Burger ("Burger") of the Indianapolis Metropolitan Police Department was investigating a report of vandalism in the 9300 block of East 43rd Street in Indianapolis when he heard a "loud disturbance" behind him. (Tr. 26.) Looking around, he saw Davis "kicking" and "banging on a door" of an apartment, and heard "a lot of yelling and screaming" behind him. (Tr. 27.)

Officer Burger walked over to where Davis had been, but Davis was already on his way inside the apartment. Burger knocked on the door and was allowed into the apartment, and found Davis inside the apartment with two women. Davis had been arguing over narcotics with one of the women, Shawntel Price ("Price").

Other officers arrived on the scene to provide assistance to Officer Burger. Officer Jerry Torres ("Torres") spoke with Price and Davis. Having encountered Price and Davis before, Officer Torres knew "they shouldn't be together" and returned to his squad car to check "their status." (Tr. 14.) At that time, he was informed a no-contact order as to Price was in place against Davis and arrested Davis as a result. Officer Torres asked Davis whether "he knew he shouldn't be there," and Davis "said he knew he shouldn't be." (Tr.

[1] Ind. Code § 35-46-1-15.1(6).

24.)

On November 24, 2009, Davis was charged with Invasion of Privacy for knowingly violating a no contact order. Davis was tried and convicted at a bench trial on January 13, 2010, and on the same day was sentenced to 365 days imprisonment, with 102 days executed, 263 days suspended, and 102 days of credit time applied. A no-contact order was also entered at that time, to run for the duration of the sentence.

This appeal followed.

Discussion and Decision

When reviewing the sufficiency of the evidence, we consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh evidence. Id. We will affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). "The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict." Id. (quoting Pickens v. State, 751 N.E.2d 331, 334 (Ind. Ct. App. 2001)).

To convict Davis of Invasion of Privacy as charged, the State was required to prove beyond a reasonable doubt that on November 24, 2009, Davis knowingly violated a no contact order issued as a condition of probation or as a condition of an executed term, which no contact order was issued to protect Price, by being in Price's presence. See Ind. Code § 35-46-1-15.1(6). Davis asserts that the State did not produce sufficient evidence that he had

adequate notice or knowledge of the applicable no contact order to prove beyond a reasonable doubt that he had the requisite intent required for a conviction.

The State presented some evidence that Davis knew or should have known of the no contact order. Officer Torres testified that Davis said he knew that he and Price should not be together. The State also introduced an Order of Probation dated March 16, 2009, from a Battery conviction, which indicated that a no contact order was in place against Davis as to Price; record of the guilty plea proceedings in the Battery conviction from which the no contact order arose; and the Plea Agreement from the same Battery conviction, which includes in its sentencing terms the provision: "OPEN TO ARGUMENT: NO CONTACT ORDER WITH SHAWNTEL PRICE … FOR THE DURATION OF THE DEFENDANT'S SENTENCE." (Ex. 5; capital letters in original.)

Taken together, the Order of Probation, Plea Agreement,[2] and Davis's statement to Officer Torres constitute sufficient evidence of Davis's knowledge of the existence of a no contact order to support his conviction. In drawing our attention to his trial testimony, Davis asks us to reweigh the evidence, which we cannot do.

Affirmed.

RILEY, J., and KIRSCH, J., concur.

[2] While the Plea Agreement includes an open term, we construe this to apply to the duration of the no contact order, rather than to its existence.