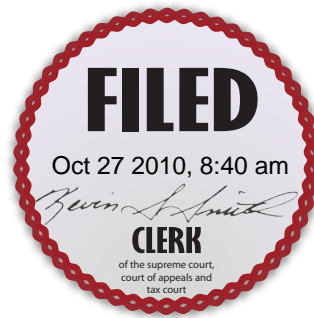


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

ANGEL RIVERA,)

Appellant-Defendant,)

vs.)

No. 49A05-1002-CR-118

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Richard Sallee, Judge
Cause No. 49F19-0908-CM-73589

October 27, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Angel Rivera appeals his conviction for Class A misdemeanor patronizing a prostitute. We affirm.

Issue

Rivera raises one issue, which we restate as whether there was sufficient evidence to support his conviction.

Facts

At approximately 10:00 a.m. on August 18, 2009, Rivera was a passenger in a car approaching the intersection of 32nd Street and College Avenue in Indianapolis. The car stopped where undercover police officer, Connie Herre, was standing. Officer Herre was wearing shorts and a low cut shirt and had her hair in a pony tail. Officer Herre approached the vehicle and leaned into the passenger side window. Rivera asked Officer Herre what she was doing there and what she was looking for. Officer Herre said she was “looking for a party.” Tr. p. 7. Rivera asked her if she was looking for a party “right there” and “how much it would be.” Id. Officer Herre told him, “it would be twenty dollars for a blow job.” Id. Rivera responded, “okay” and asked if they “were going to do it right then and there or if [they] were going somewhere else.” Id. During this encounter, as Officer Herre leaned into the vehicle, Rivera ran his finger across her breast, then he began rubbing his crotch through his pants. After they spoke, Rivera “grabbed ahold” of her left breast two other times. Id.

Officer Herre told Rivera to go to the alley. As the car pulled away, a traffic stop was conducted, and Rivera was arrested. The State charged Rivera with Class A

misdemeanor patronizing a prostitute. Following a bench trial, Rivera was convicted. He now appeals.

Analysis

Rivera argues that there is insufficient evidence to support his conviction. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). “It is the fact-finder’s role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction.” Id. We affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. Id.

To convict Rivera of patronizing a prostitute, the State was required to prove that he knowingly or intentionally agreed to pay money to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person. See Ind. Code § 35-45-4-3. Rivera claims there is insufficient evidence that he actually agreed to pay and that the evidence only shows his “discussion and contemplation.” Appellant’s Br. p. 12. He contends that asking where the conduct would occur “was natural in term of progressing the bargaining process and fleshing out all of the terms.” Id. at 11.

Contrary to Rivera’s arguments, there is evidence from which the trial court could have inferred that Rivera had agreed to pay and was not just in the process of negotiating the terms of an agreement. Based on his own testimony, Rivera understood that Officer Herre “was walking around in the business of prostitution.” Tr. p. 14. Rivera testified

that he asked Officer Herre “how much she charged” and “where [they] were going to do it and she said in the alley.” Id. at 14, 15. When Officer Herre told him it would be “twenty dollars for a blow job,” Rivera responded, “okay.” Id. at 7. During this encounter fondled himself and Officer Herre. It was for the trial court to assess witness credibility and determine whether Rivera was joking around, as he claimed at trial. There is sufficient evidence to support Rivera’s conviction for patronizing a prostitute.

Conclusion

There is sufficient evidence to support Rivera’s conviction. We affirm.

Affirmed.

FRIEDLANDER, J., and CRONE, J., concur.