

Case Summary

Kurtis Reynolds appeals his conviction for Class B misdemeanor public intoxication. He contends that the evidence is insufficient to support the intoxication element. Finding the evidence of Reynolds' red, bloodshot, glassy, and watering eyes, very strong odor of alcohol about his person, confused state and inability to follow simple directions, and admission that he had consumed alcohol the night before sufficient to establish intoxication, we affirm his conviction.

Facts and Procedural History

On the morning of November 5, 2009, Marion County Sheriff's Deputy Kevin Beckner encountered Reynolds at the northwest probation office on Lafayette Road. When Reynolds reported for community work service that morning, his supervisor smelled alcohol on his person. So, his supervisor asked Deputy Beckner to administer a portable breath test. As Deputy Beckner approached Reynolds to administer the test, Reynolds "displayed red bloodshot, glassy and watering eyes, and a very strong odor of an alcoholic beverage on his person." Tr. p. 6. Deputy Beckner, who is trained on the signs of intoxication, said that Beckner displayed some of these signs. *Id.* Deputy Beckner also explained that he had to administer two portable breath tests to Reynolds because Reynolds was "in [a] confused state" and "wouldn't follow my simple directions." *Id.* at 7. The PBT reading, to which Reynolds did not object at trial, was 0.053. *Id.* According to Reynolds, he had been drinking the night before.

The State charged Reynolds with Class B misdemeanor public intoxication. A bench trial was held. In finding Reynolds guilty as charged, the trial court stated, "Court

finds the State has met its burden. The defendant appeared at his Probation office and blew a point zero five three, and demonstrated signs of intoxication sufficient to raise the concerns of his Probation supervisor, and the deputy.” *Id.* at 10. The court sentenced Reynolds to fifteen days in the Marion County Jail. Reynolds now appeals.

Discussion and Decision

Reynolds contends that the evidence is insufficient to support his conviction for public intoxication. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the judgment. *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.*

“It is a Class B misdemeanor for a person to be in a public place or a place of public resort in a state of intoxication caused by the person’s use of alcohol or a controlled substance (as defined in IC 35-48-1-9).” Ind. Code § 7.1-5-1-3. Reynolds concedes that there is evidence in the record that he had consumed alcohol the night before and that there was an odor of alcohol about his person. Appellant’s Br. p. 6. However, he argues that “[t]here is a failure of proof in the record that [he] was intoxicated”; therefore, his conviction must be reversed. *Id.*

Deputy Beckner testified that Reynolds’ eyes were red, bloodshot, glassy, and watering and that there was a very strong odor of an alcoholic beverage about his person.

Deputy Beckner also explained that he had to administer two PBTs to Reynolds because he was in a confused state and could not follow simple directions. The PBT then tested positive for alcohol. Reynolds admitted to consuming alcohol the night before. Reynolds' arguments that there was no evidence of an unsteady balance or swaying and that some people may have trouble understanding PBT directions is merely a request for us to reweigh the evidence, which we will not do. We therefore conclude that the evidence is sufficient to prove that Reynolds was intoxicated and affirm his conviction for public intoxication. *See Wright v. State*, 772 N.E.2d 449, 458 (Ind. Ct. App. 2002) (affirming public intoxication conviction where deputy testified that the defendant had red eyes and slow and slurred speech, smelled strongly of alcohol, and was unsteady on his feet).

Affirmed.

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