

STATEMENT OF THE CASE

Appellant-Defendant James K. Bohannon appeals his conviction for arson, a Class B felony. Ind. Code § 35-43-1-1(a) (2002). We affirm.

ISSUE

Bohannon raises one issue, which we restate as whether the evidence is sufficient to sustain his conviction.

FACTS

On the evening of September 7, 2008, Bohannon was incarcerated in the Jennings County Jail. He got into a fight with a jailer and was placed in a one-person padded cell. Jennings removed his pants and set them on fire with a lighter he had smuggled into the jail. The padding material in the cell was flammable and was scorched by the fire. After Bohannon set the fire, he shouted for help, and several jailers responded to the fire. One jailer put out the fire with a wet towel.

There were ten to twelve male inmates and two female inmates in cells near the cell where Bohannon set the fire. The jailers moved the two female inmates to another location in the jail because there was smoke in their cell and they were coughing.

The State charged Bohannon with arson and other offenses, including being a habitual offender. A jury convicted Bohannon of arson and other charges, and he admitted to being a habitual offender. This appeal followed.

DISCUSSION AND DECISION

When reviewing the sufficiency of evidence supporting a conviction, we neither reweigh the evidence nor judge the credibility of witnesses. *Staton v. State*, 853 N.E.2d

470, 474 (Ind. 2006). Rather, we look to the evidence most favorable to the verdict together with all reasonable inferences to be drawn from that evidence. *Id.* We will affirm the jury's verdict if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

In this case, in order to convict Bohannon of arson as a Class B felony, the State was required to prove that Bohannon (1) by means of fire, explosive, or destructive device (2) knowingly or intentionally (3) damaged property of any person under circumstances that endangered human life. I.C. 35-43-1-1(a). Bohannon concedes that he knowingly or intentionally set a fire in his cell, but he contends that there is insufficient evidence to prove that the circumstances of the fire endangered human life. Specifically, Bohannon notes that he did not set himself on fire, and he claims that the fire posed little risk of spreading in his cell or to other parts of the jail. Consequently, Bohannon argues that he should have been convicted of arson as a Class D felony instead of a Class B felony.

In *Garren v. State*, 470 N.E.2d 719, 721 (Ind. 1984), Garren was incarcerated at a county jail and set a fire in his cell by igniting papers and cups on his mattress. Jailers saw smoke and fire in the cell and removed two other inmates from the area. Jailers also removed Garren from his cell, and firefighters removed the smoldering mattress. On appeal, Garren challenged his conviction for arson by arguing that there was insufficient evidence to prove that the circumstances of the fire endangered human life. *Id.* at 724. Our Supreme Court disagreed, noting that the fire occurred in a locked cell in a cell block

containing other prisoners and that the fire could have produced smoke, toxic fumes and/or flames that would endanger others. *Id.* Furthermore, witnesses in the cell block at the time of the fire reported some difficulty breathing. *Id.* Consequently, the evidence was sufficient to sustain Garren's arson conviction. *Id.* at 725.

In the current case, Bohannon removed his pants and set fire to them in a locked, padded cell. The padding material was flammable and could have produced smoke, fumes, or flames. When a jailer opened the cell door, smoke rolled out. One witness recalled that there was a lot of smoke for a cell that size. There were ten to twelve male inmates and two female inmates in cells near the cell where Bohannon started the fire. The female inmates' cell had smoke in it and they were coughing, so the jail staff moved them to another location. Finally, one of the jailers extinguished the fire with a wet towel. This evidence demonstrates that Bohannon's fire endangered himself, nearby inmates, and the jailers who responded to the fire. Thus, as in *Garren*, there is sufficient evidence to support Bohannon's arson conviction. *See Garren*, 470 N.E.2d at 724; *Thacker v. State*, 477 N.E.2d 921, 924 (Ind. Ct. App. 1985) (determining that there was sufficient evidence that the appellant had endangered human life because the appellant's fire endangered the crowd that had gathered at the scene of the fire and the firefighters that came to extinguish the fire).

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

Affirmed.

KIRSCH, J., and NAJAM, J., concur.