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IN THE
COURT OF APPEALS OF INDIANA

LANCE ANDERSON,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 49A05-0908-CR-460
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Respondent.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Amy Barbar, Magistrate
Cause No. 49G02-0902-FC-24645

March 10, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Lance Anderson appeals his conviction of operating a motor vehicle after his license was forfeited for life, a Class C felony.[1] He argues the State did not prove beyond a reasonable doubt he was driving the vehicle when the police stopped it. We affirm.

FACTS AND PROCEDURAL HISTORY

On February 11, 2009, an Indianapolis police officer stopped a minivan after he saw it change lanes twice without signaling. The driver was wearing a baseball cap. As the officer approached the vehicle he saw the driver jump into the back seat. The two passengers in the vehicle did not move. At trial the officer identified Anderson as the person he saw jump from the driver's seat to the back passenger seat. Anderson was wearing a baseball cap; no one else in the vehicle was wearing a hat. The keys were in the ignition and no one was in the driver's seat. Anderson was an habitual traffic violator, and his license had been suspended for life.

DISCUSSION AND DECISION

There was sufficient evidence Anderson was the driver. In reviewing the sufficiency of evidence, we do not reweigh the evidence or assess the credibility of the witnesses. *Firestone v. State*, 838 N.E.2d 468, 472-73 (Ind. Ct. App. 2005). We consider only the evidence most favorable to the judgment, together with all reasonable and logical inferences to be drawn therefrom. *Id*. The conviction will be affirmed if there is substantial evidence of probative value to support the finding of the trier of fact. *Id*.

[1] Ind. Code § 9-30-10-17.

A conviction may be sustained on the uncorroborated testimony of a single witness. *Baltimore v. State*, 878 N.E.2d 253, 258 (Ind. Ct. App. 2007), *trans. denied* 891 N.E.2d 38 (Ind. 2008). The police officer who stopped Anderson offered such testimony, and we may not reweigh the evidence. *See Stanek v. State*, 587 N.E.2d 736, 741 (Ind. Ct. App. 1992) (evidence was sufficient to support Stanek's conviction of operating a motor vehicle while privileges were forfeited for life where a police officer testified he saw Stanek driving the car he had stopped, and a deputy prosecutor testified he had told Stanek his driving privileges were forfeited for life), *aff'd in part and vacated in part*, 603 N.E.2d 152 (Ind. 1992).[2]

Anderson argues language the trial court used indicates it might have applied a "lesser evidentiary standard than is required in a criminal trial." (Br. of the Appellant at 6.) The magistrate noted "this case is an issue of credibility," then explained why the evidence caused her to "lean toward the officer's testimony." (Tr. at 70.) The "lean toward" language, Anderson asserts, "suggests application of an improperly lenient standard when reviewing the evidence." (Br. of the Appellant at 7.)

We decline to so hold. The magistrate explicitly said, "I'm going to find the State has met it's [sic] burden of proof," (Tr. at 71), and we must presume she knew what the State's burden was. "We presume the trial judge is aware of and knows the law, and considers only evidence properly before the judge in reaching a decision." *Dumas v. State*, 803 N.E.2d 1113, 1121 (Ind. 2004). We agree with the State that the magistrate's statement she was "lean[ing] toward" the officer's testimony was merely an explanation

[2] That part of our opinion was adopted and incorporated pursuant to Ind. Appellate Rule 11(B)(3) by our Supreme Court in *Stanek v. State*, 603 N.E.2d 152 (Ind. 1992).

why she chose to credit that testimony and not the conflicting testimony Anderson offered. There was sufficient evidence to support Anderson's conviction.

Affirmed.

KIRSCH, J., and DARDEN, J., concur.