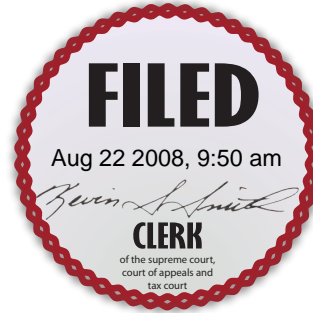


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

RAMON HARPER,)

Appellant-Defendant,)

vs.)

No. 49A04-0801-CR-66

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Amy Barbar, Judge
Cause No. 49G22-0701-FB-15877

August 22, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Ramon Harper appeals his conviction for robbery as a class B felony.¹ Harper raises one issue, which we restate as whether the evidence is sufficient to sustain his conviction. We affirm.

The relevant facts follow. On January 26, 2007, sixty-nine-year-old Joe Ballard went to a pawn shop to cash a check for \$100.00. Ballard left the store and was walking down the street when a man later identified as Harper approached him. Harper asked Ballard for five or ten dollars, and Ballard refused. Harper punched Ballard, and Ballard fell to the ground. Harper continued to punch and kick Ballard, and Ballard felt Harper reaching into his back pocket. Although Ballard struggled, he felt his wallet slip out of his pocket. According to Ballard, Harper “finally got the billfold out and left.” Transcript at 53. During the investigation, the police obtained a description of the assailant and his vehicle. Harper, who matched the description, was arrested soon thereafter. During questioning, Harper admitted to hitting Ballard but denied taking Ballard’s “empty” wallet. *Id.* at 108-109.

The State charged Harper with robbery as a class B felony and battery as a class A misdemeanor. After a bench trial, the trial court found Harper guilty as charged. Due to double jeopardy concerns, the trial court sentenced Harper only for the robbery conviction as a class B felony. The trial court sentenced Harper to twelve years in the Indiana Department of Correction with two years suspended to probation.

¹ Ind. Code § 35-42-5-1 (2004).

The issue is whether the evidence is sufficient to sustain Harper’s conviction for robbery as a class B felony. 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). We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court’s ruling. Id. We 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)). It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. Id.

The offense of robbery as a class B felony is governed by Ind. Code § 35-42-5-1, which provides:

A person who knowingly or intentionally takes property from another person or from the presence of another person:

- (1) by using or threatening the use of force on any person; or
- (2) by putting any person in fear;

commits robbery, a Class C felony. However, the offense is a Class B felony if it . . . results in bodily injury to any person other than a defendant .

. . .

Thus, to convict Harper of robbery as a class B felony, the State needed to prove that Harper knowingly or intentionally took Ballard’s wallet by using or threatening force on Ballard or by putting him in fear and that the offense resulted in bodily injury to Ballard.

Harper argues that he did not take Ballard’s wallet. Harper points out that the State did not find Ballard’s wallet and that none of the witnesses saw Harper take

Ballard's wallet. This argument is merely a request that we reweigh the evidence, which we cannot do. Drane, 867 N.E.2d at 146. Ballard testified that Harper was hitting him and trying to remove his wallet from his back pocket. Ballard felt the wallet slide out of his pocket, and Harper then stopped hitting him and left. During questioning by the police, Harper admitted to beating Ballard but denied taking the "empty" wallet. Transcript at 108-109. We conclude that the State presented probative evidence from which the trial court could have found Harper guilty beyond a reasonable doubt of robbery as a class B felony. See, e.g., Proffit v. State, 817 N.E.2d 675, 682 (Ind. Ct. App. 2004) (holding that the evidence was sufficient to sustain the defendant's conviction for robbery as a class B felony), trans. denied.

For the foregoing reasons, we affirm Harper's conviction for robbery as a class B felony.

Affirmed.

BAKER, C. J. and MATHIAS, J. concur