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**IN THE
COURT OF APPEALS OF INDIANA**

MICHAEL MYERS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A04-0802-CR-81

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Reuben Hill, Judge
Cause No. 49F18-0408-FD-145305

August 29, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Michael Myers (“Myers”) appeals his conviction for Criminal Trespass, as a Class D felony.¹ We affirm.

Issue

Myers presents a single issue for review: whether the State presented sufficient evidence to support his conviction for Criminal Trespass.

Facts and Procedural History

In 2004, Myers was employed as a media assistant at Indianapolis Public School 78 (“IPS 78”). On April 26, 2004, Denise Kent (“Kent”), the Human Resources Generalist for IPS, met with Myers and advised him that he was terminated from employment, effective immediately. Kent advised Myers that he was not allowed on any IPS property “without permission from [her] or contacting [the] School Police Department.” (Tr. 36.) Kent also advised Myers and his union representative that Myers could “set up a meeting” to retrieve his personal belongings. (Tr. 36.)

Kent twice arranged dates with Melissa Richards (“Richards”), the principal of IPS 78, on which Myers could pick up his personal belongings. Myers did not show up to retrieve his personal belongings on those dates. On June 3, 2004, Myers entered IPS 78 and went into a classroom one floor above where the media center and Myers’s box of belongings were located. Richards was summoned to the classroom and asked Myers five times to leave. Eventually, Richards escorted Myers out of the building.

¹ Ind. Code § 35-43-2-2.

On June 11, 2004, the State charged Myers with Criminal Trespass. On January 10, 2008, a jury found Myers guilty as charged. He was sentenced to 365 days imprisonment, with 361 days suspended to probation. Myers now appeals.

Discussion and Decision

Myers claims that the evidence is insufficient to support his conviction. More specifically, he argues that he had a reasonable belief that he had a right to be on the property.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and the reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). In so doing, we do not assess witness credibility or reweigh the evidence. Id. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. Id.

To convict Myers of Criminal Trespass, as charged, the State was required to establish beyond a reasonable doubt that Myers, not having a contractual interest in the property, knowingly or intentionally entered school property, specifically IPS 78, after having been denied entry by an IPS agent. See Ind. Code § 35-43-2-2(a)(1), App. 22. A person has been denied entry when notice has been given by means of personal communication, oral or written. See Ind. Code § 35-43-2-2(b)(1). The belief that one has the right to be on property of another, as will preclude liability for criminal trespass, must have a fair and reasonable

foundation. Olsen v. State, 663 N.E.2d 1194, 1196 (Ind. Ct. App. 1996) (citing Myers v. State, 190 Ind. 269, 130 N.E. 116, 117 (1921)).

Kent testified that Myers was terminated from employment and advised, orally and in writing, that he was not allowed on IPS property without permission. She further testified that Myers lacked a contractual interest in IPS property, and did not contact her prior to entering School 78 on June 3, 2004. Teacher Sara Simpson testified that, on June 3, 2004, Myers came into her classroom on the top floor of IPS 78 and stayed until Richards asked him “at least five times” to leave. (Tr. 57.) Richards testified that June 3, 2004 was not a day designated for Myers to retrieve his belongings, and that Myers failed to comply with her initial requests that he leave. She escorted Myers out while an IPS secretary summoned police assistance.

From this evidence, the jury could conclude that Myers, lacking a contractual interest in IPS 78, knowingly or intentionally entered IPS 78 after having been denied entry by an IPS agent. Nevertheless, Myers relies upon his testimony that he was welcomed by several teachers and went to the upper floor of the school only to find Richards. He asks this Court to resolve in his favor conflicts arising from the testimony and conclude that he reasonably believed that he had a right to be on IPS property. However, the trier of fact, rather than this Court, is in the best position to weigh the evidence presented and to resolve conflicts arising from the testimony of multiple witnesses. Graham v. State, 713 N.E.2d 309, 311 (Ind. Ct. App. 1999), trans. denied.

Conclusion

There is sufficient evidence to support Myers's conviction for Criminal Trespass.

Affirmed.

RILEY, J., and BRADFORD, J., concur.