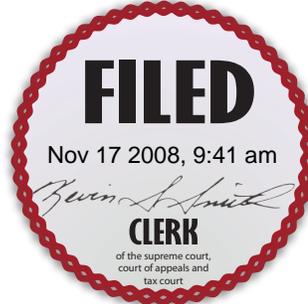


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

ATTORNEYS FOR APPELLEE:

BARBARA J. SIMMONS
Oldenburg, Indiana

STEVE CARTER
Attorney General of Indiana

MATTHEW WHITMIRE
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

SAMUEL STEED,)

Appellant-Defendant,)

vs.)

No. 49A02-0803-CR-294

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda Brown, Judge
Cause No. 49F10-0801-CM-6385

November 17, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Samuel Steed appeals his conviction for Class A misdemeanor criminal trespass.

We affirm.

Issue

Steed presents one issue for our review: whether the trial court had sufficient evidence to find him guilty of Class A misdemeanor criminal trespass.

Facts

On January 8, 2008, Vicent Shimp approached Indianapolis police officers while they patrolled the 900 block of South Illinois street. Shimp requested that officers watch one of his vacant properties, which was on that block, to make sure no one was trespassing. The house was uninhabitable and was going to be torn down. He told the officers that he had been having problems with homeless people using the premises. The windows and doors of the house were boarded with plywood. The utilities were turned off. Shimp had posted “no trespassing” signs on all sides of the house. The back door was supposed to be chained and locked, but officers noticed it was opened and unlocked and a back window was broken.

Officers entered the house to investigate further and noted that it looked “like a homeless camp, very dirty.” App. p. 12. They found Steed inside on a couch. Steed claimed he had been paid \$75 by “some guy who gave him permission to clean the house.” Id. Shimp explained to officers that no one had permission to be inside the house. Officers arrested Steed for criminal trespass and the State charged him with Class A misdemeanor criminal trespass. The trial court found Steed guilty after a bench trial on

February 28, 2008. The trial court sentenced Steed to 365 days with 245 suspended and no probation. This appeal followed.

Analysis

Steed argues the State presented insufficient evidence to support his conviction for Class A misdemeanor criminal trespass. Upon a challenge to the sufficiency of evidence to support a conviction, we do not reweigh the evidence or judge the credibility of the witnesses, and we respect the trier of fact's exclusive province to weigh conflicting evidence. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). We must consider only the probative evidence and reasonable inferences supporting the verdict. Id. If the probative evidence and reasonable inferences drawn therefrom could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt, we must affirm the conviction. Id.

The statutory elements of criminal trespass are varied to apply to different circumstances. In this situation the State was required to show that a person “not having a contractual interest in the property, knowingly or intentionally enter[ed] the real property of another person after having been denied entry by the other person or that person's agent.” Ind. Code § 35-43-2-2(a)(1). A person can be “denied entry” under this section by means of a “posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.” I.C. § 35-43-2-2(b)(2).

Steed seems to argue on appeal that the property owner was required to post a “no trespassing” at every potential entry—including the chained back door—and to

continuously replace signs that may have been vandalized or removed. This diligence is not required by the statute. Shimp testified that he did not give Steed or any other person permission to be inside his South Illinois street property. Shimp had multiple “no trespassing” signs posted on the property. Although Officer Scroggins did not recall seeing a sign on the rear of the home, Office Shaffer testified that there was a sign in the back window. In any event, all parties, including Steed, testified that a “no trespassing” sign was clearly visible from the front of the home. This sign gave sufficient notice to the public and coupled with the plywood affixed to the windows and doors, it would be clear to passerbys that the property owner was putting them on notice not to enter. As put succinctly by the State during its closing statement, the prevention of “trespassing doesn’t require that [the property owner] stand there in his doorway and wag his finger at the defendant and say no, you are never to return to my property.” Tr. p. 58.

Steed also argues on appeal that he was lawfully in the house by the invitation of the unnamed stranger who paid him to clean the residence and allowed him inside and therefore had no criminal intent to commit trespass. This argument is merely a request for us to reweigh the evidence presented at trial. The trial court heard Steed’s testimony and was in the best position to assess his credibility. We decline Steed’s request to judge his credibility and reweigh the evidence. See McHenry, 820 N.E.2d at 126.

Conclusion

The State presented sufficient evidence to convict Steed of Class A misdemeanor criminal trespass. We affirm.

Affirmed.

FRIEDLANDER, J., and DARDEN, J., concur.