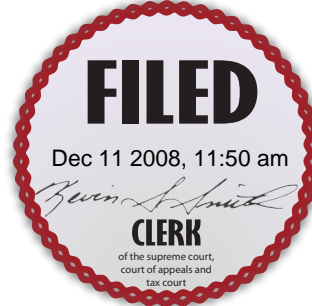


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

DOMENISE DRANE,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A05-0805-CR-274
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Paula Lopossa, Senior Judge
Cause No. 49F08-0509-CM-165482

December 11, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Domenise Drane appeals her conviction for Class B misdemeanor disorderly conduct. We affirm.

Issue

Drane raises one issue on appeal: whether the State presented sufficient evidence to support her conviction for disorderly conduct.

Facts

On September 26, 2005, Officer Tracy Ryan of the Indianapolis Police Department responded to a call reporting a female wandering the 500 block of East 16th Street in Indianapolis, soliciting sex. Officer Ryan approached Drane, who matched the description, and initiated conversation by asking how her day was going. Drane responded that it was “none of her f***ing business.” Tr. p. 10. Officer Ryan asked for identification. After fumbling and first pulling out a credit card, Drane eventually located and handed over identification. Officer Ryan observed Drane’s bloodshot eyes, slurred speech, and noticed an alcohol smell. She arrested Drane for public intoxication. Drane was “screaming at the top of her lungs” and Officer Ryan requested her to lower her voice three times or a charge for disorderly conduct would be added. Tr. p. 15. Drane did not heed Officer Ryan’s request and continued screaming profanities. Her screaming attracted the attention of motorists at the nearby intersection, who stopped to watch rather than proceed through the traffic light.

The State charged Drane with Class B misdemeanor disorderly conduct and public intoxication. Drane was convicted of Class B misdemeanor disorderly conduct after a bench trial. The trial court sentenced her to forty eight days. This appeal followed.

Analysis

Drane contends there is insufficient evidence to support her conviction. When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. Henley v. State, 881 N.E.2d 639, 652 (Ind. 2008). “We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence.” Id. We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. Id.

To convict Drane of disorderly conduct, the State was required to prove that she recklessly, knowingly, or intentionally made unreasonable noise and continued to do so after being asked to stop. Ind. Code § 35-45-1-3(a)(2). Our supreme court explained that this statute is “expressly aimed at preventing the harm which flows from the volume of the expression and not its substance.” Price v. State, 622 N.E.2d 954, 966 (Ind. 1993). The charging information specified that Drane recklessly made unreasonable noise. Drane contends that her actions did not rise to the level of reckless as defined by Indiana Code Section 35-41-2-2(c): “A person engages in conduct ‘recklessly’ if he engages in

the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct.”¹

Drane was yelling profanities at Officer Ryan in the course of Ryan’s duty and while the pair stood near a street corner and in front of a grocery store. Officer Ryan testified that even after asking Drane repeatedly to be quiet, Drane instead “told me that God was going to get me” and was “just screaming and yelling profanities.” Tr. p. 24. Motorists stopped at the nearby intersection to watch the situation and Officer Ryan had to instruct the drivers to proceed though their green light. Meanwhile, Officer Ryan asked Drane repeatedly to lower her voice. Drane’s continued yelling and screaming at a police officer not only exceeded acceptable standards of conduct, but also distracted nearby motorists and prevented Officer Ryan from timely and effectively pursuing her own duties. These distractions created a potential for harm to those nearby. The trial court had enough evidence to convict Drane of disorderly conduct.

Conclusion

The trial court had sufficient evidence to convict Drane of Class B misdemeanor disorderly conduct. We affirm.

Affirmed.

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

¹ Drane does not contend her yelling amounted to political speech.