

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Timothy J. Burns
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General

George P. Sherman
Supervising Deputy Attorney
General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Bryson Ruth,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

November 6, 2023

Court of Appeals Case No.
23A-CR-1031

Appeal from the Marion Superior
Court

The Honorable Jason G. Reyome,
Magistrate

Trial Court Cause No.
49D19-2205-CM-12616

Memorandum Decision by Judge Crone
Judges Riley and Mathias concur.

Crone, Judge.

Case Summary

- [1] Bryson Ruth appeals his conviction for class A misdemeanor cruelty to an animal. He contends that the State presented insufficient evidence to support his conviction. Finding the evidence sufficient, we affirm.

Facts and Procedural History

- [2] On May 10, 2022, Indianapolis Metropolitan Police Department Officers Jeremy Bless and Joshua Smith responded to a report of a parked vehicle on North High School Road with several dogs inside. The windows of the vehicle were rolled up and the vehicle was turned off. The outside temperature was approximately eighty-five degrees at the time. Two adult dogs and three puppies were inside the vehicle. The adult dogs appeared “very malnourished[,]” and the puppies were “very lethargic” and “barely moving.” Tr. Vol. 2 at 37. The dogs were panting and “very hot to the touch.” *Id.* Two of the puppies were underneath the front seat, and the third puppy was stuck under the driver’s seat with its head wedged underneath the bar that moves the seat back and forth. Feces and garbage were inside the vehicle but no water or food. As officers were removing the dogs from the vehicle, Ruth approached Officer Bless and asked him what he was doing. Officer Bless informed Ruth that he was removing the dogs from the vehicle. Ruth told Officer Smith that he and his wife were homeless and living in the vehicle with the dogs. Ruth admitted that he had left the dogs unattended inside the hot vehicle for nearly five hours.

[3] The State charged Ruth with class A misdemeanor cruelty to an animal. A bench trial was held on April 12, 2023. The trial court found Ruth guilty as charged and sentenced him to 180 days, with 176 days suspended to non-reporting probation. This appeal ensued.

Discussion and Decision

[4] Ruth challenges the sufficiency of the evidence to support his conviction. In reviewing a claim of insufficient evidence, we do not reweigh the evidence or judge the credibility of witnesses, and we consider only the evidence that supports the conviction and the reasonable inferences arising therefrom. *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009). It is “not necessary that the evidence ‘overcome every reasonable hypothesis of innocence.’” *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)). “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.” *Bailey*, 907 N.E.2d at 1005.

[5] Indiana Code Section 35-46-3-7(a) provides that “[a] person who: (1) has a vertebrate animal in the person’s custody; and (2) recklessly, knowingly, or intentionally abandons or neglects the animal; commits cruelty to an animal, a Class A misdemeanor.” “Neglect” means in part “(A) endangering an animal’s health by failing to provide or to arrange to provide the animal with food or drink, if the animal is dependent upon the person” for such or “(C) restraining an animal in a manner that seriously endangers the animal’s life or health.” Ind.

Code § 35-46-3-0.5(5). Ruth admits that the dogs were in his custody, but he contends that the evidence was insufficient to show that he neglected them or that he did so recklessly, knowingly, or intentionally.

[6] Here, the State presented evidence that Ruth left two adult dogs and three young puppies inside his vehicle for nearly five hours on a very hot day. The windows were rolled up, and the dogs had no access to food or water and no sanitary place to use the bathroom. The officers observed that the adult dogs appeared malnourished, and the puppies were lethargic and barely moving. The vehicle was full of trash and feces by the time officers were able to intervene. A reasonable factfinder could conclude from this evidence that these animals were neglected. *See Reynolds v. State*, 569 N.E.2d 680, 682 (Ind. Ct. App. 1991) (jury could infer animals were neglected based on evidence that they were kept in inhumanely hot environment, confined in small cages without adequate food or water or adequate opportunity for elimination; jury could also reasonably infer from the thin appearance of animals that they were not adequately fed).

[7] To the extent that Ruth argues that the State failed to prove his intent, we observe that “[t]he mens rea element may be proven by circumstantial evidence alone, and may be inferred from the facts and circumstances of each case.” *Baxter v. State*, 891 N.E.2d 110, 121 (Ind. Ct. App. 2008). “The State is not required to prove mens rea by direct and positive evidence.” *Id.* The minimum mens rea that would support Ruth’s conviction is recklessness, which means acting “in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of

conduct.” Ind. Code § 35-41-2-2(c). Both officers testified that the outside temperature that day was eighty-five degrees. As noted by the trial court, “basic logic indicates” that if the outside temperature was eighty-five degrees, then the temperature inside the vehicle would have been even hotter. Tr. Vol. 2 at 48. From this evidence, it was reasonable for the trial court to conclude that Ruth’s behavior in restraining these dogs in a hot car without water for such an extended period was in plain, conscious, and unjustifiable disregard for the harm that might result to the dogs and such disregard involved a substantial deviation from acceptable standards of conduct. His conviction is affirmed.

[8] Affirmed.

Riley, J., and Mathias, J., concur.