

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Amos G. Davis, III,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

March 13, 2024

Court of Appeals Case No.
23A-CR-1790

Appeal from the St. Joseph Superior Court
The Honorable Keith C. Doi, Magistrate

Trial Court Cause No.
71D06-2211-CM-002076

Memorandum Decision by Judge Felix
Chief Judge Altice and Judge Bradford concur.

Felix, Judge.

Statement of the Case

[1] In October 2022, the trial court entered a no-contact order that prohibited Amos G. Davis III from having contact with his wife Barbara Davis. Shortly after the trial court entered the order, Davis went to Barbara’s house, where the two got into an argument. Barbara called 911, and law enforcement officers arrested Davis. The State charged Davis with invasion of privacy, and after a bench trial, the trial court found Davis guilty as charged. Davis presents one issue on appeal: Whether there was sufficient evidence to support an invasion of privacy conviction; more specifically, whether the State presented sufficient evidence to prove the mens rea element of the offense.

[2] We affirm.

Facts and Procedural History¹

[3] On three separate occasions in 2022, the State charged Davis with invasion of privacy for violating orders that protected Barbara. This appeal addresses the third case the State filed against Davis. The first two cases related to offenses

¹ On August 24, 2023, the trial court issued an order stating that a full transcript could not be provided due to technical difficulties with the recording. Appellant’s App. Vol. II at 51. Pursuant to Indiana Appellate Rule 31, the trial court ordered the parties to provide proposed statements of evidence. *Id.* at 51–52. On October 17, 2023, the trial court issued a certified statement of the evidence which we relied on for our factual history of the case. *Id.* at 70–72.

that allegedly occurred on September 28² and October 11³, 2022. In those cases, the State charged Davis with invasion of privacy based on alleged violations of an April 18, 2022, protective order⁴ that protected Barbara from Davis. In both instances, Barbara had called the police while Davis was at her house. On October 12, 2022, as a condition of pretrial release for the September 28 charge, the trial court issued a no-contact order, which prohibited Davis from contacting Barbara and visiting her house. The trial court personally served the no-contact order on Davis in open court, and, notably, the order explicitly stated that “[o]nly the Court can change this order.” Ex. Vol. III at 7 (emphasis in original). The order was to remain in effect until October 12, 2024.

[4] A few weeks later, on October 31, 2022, Officer Gage Conway of the South Bend Police Department responded to a 911 call from Barbara’s house. Once he arrived, Officer Conway found Barbara and Davis inside the house. After determining the validity of the no-contact order, Officer Conway arrested Davis. On November 1, 2022, the State charged Davis with invasion of privacy as a Class A misdemeanor⁵.

² This case was filed under 71D08-2209-CM-1859.

³ This case was filed under 71D06-2210-CM-1949 (“CM-1949”).

⁴ The protective order was issued under cause 71C01-2204-PO-334.

⁵ Ind. Code § 35-46-1-15.1(a)(11).

[5] On July 13, 2023, by agreement of the parties, the trial court conducted a consolidated bench trial in this cause and the CM-1949 cause. At trial, Barbara testified that, on or before October 22, 2022, she had told Davis that “she had gone to Court to have the Order of Protection removed.” Appellant’s App. Vol. II at 72. She had also shown Davis a vacated protective order from a different case and had told him that he was not violating the law by being at her house. Barbara testified that, on October 31, 2022, while she and Davis were in her house, they got into an argument, she called 911, and she told law enforcement that Davis was violating the no-contact order. The trial court convicted Davis of invasion of privacy and sentenced him to a 90-day suspended sentence. Davis now appeals.

Discussion and Decision

[6] Davis argues that the State presented insufficient evidence at trial to support his invasion of privacy conviction. “Sufficiency-of-the-evidence arguments trigger a deferential standard of appellate review, in which we ‘neither reweigh the evidence nor judge witness credibility, instead reserving those matters to the province of the [factfinder].’” *Owen v. State*, 210 N.E.3d 256, 264 (Ind. 2023) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018)), *reh’g denied* (Aug. 17, 2023). When reviewing sufficiency of evidence claims, “we consider only ‘the probative evidence and reasonable inferences supporting the verdict.’” *Id.* (quoting *Matheney v. State*, 583 N.E.2d 1202, 1208 (Ind. 1992)). We will reverse a guilty verdict only when no reasonable trier of fact “could find the elements of

the crime proven beyond a reasonable doubt.” *Lock v. State*, 971 N.E.2d 71, 74 (Ind. 2012) (quoting *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007)).

[7] A person commits invasion of privacy as a Class A misdemeanor when he knowingly or intentionally violates a no-contact order. I. C. § 35-46-1-15.1(a)(11).

(a) A person engages in conduct “intentionally” if, when he engages in the conduct, it is his conscious objective to do so.

(b) A person engages in conduct “knowingly” if, when he engages in the conduct, he is aware of a high probability that he is doing so.

Id. at § 35-41-2-2(a)–(b). “[I]t is well-established that a defendant’s intent can be proved by circumstantial evidence.” *Phipps v. State*, 90 N.E.3d 1190, 1195 (Ind. 2018) (citing *McCaskill v. State*, 3 N.E.3d 1047, 1050 (Ind. Ct. App. 2014)).

[8] Davis claims there was no evidence to establish that he knowingly or intentionally violated the order. Here, on October 12, 2022, Davis was personally told by the trial court to have no-contact with Barbara, and, only a few weeks later, he violated the terms of that order.

[9] Davis argues he could not have knowingly or intentionally violated the order because Barbara asked him to come over and tricked him into thinking the no-contact order had been vacated. First, we note that an invitation from a protected person does not waive or nullify an order for protection. I.C. § 34-26-5-11; *Boultinghouse v. State*, 120 N.E.3d 586, 592 (Ind. Ct. App. 2019); *Smith v.*

State, 999 N.E.2d 914, 918 (Ind. Ct. App. 2013). Second, the trial court was unpersuaded by Davis’s argument that being tricked negated the intent element of the crime. Third, Davis’s argument is merely a request for us to reweigh the evidence, which we will not do. *See Owen*, 210 N.E.3d at 264. Based on the trial court’s decision to convict Davis, it is clear that the court did not believe her testimony regarding having previously told Davis that she had the no-contact order removed.

[10] Even if the trial court believed that Barbara lied to Davis and tricked him into coming over, we do not find this fact demonstrably different than the cases where the victim consented to the Defendant’s contact. If Davis had believed Barbara’s statement about the no-contact order, he still had at least nine days to verify the status of the order. The no-contact order, which was obtained upon the State’s request and was issued as a condition of Davis’s release, provided the trial court’s contact information, so Davis could have called the trial court to verify the status of the order.⁶ Furthermore, Davis had been appointed counsel for his two previously filed causes. Davis could have contacted his attorney to determine the accuracy of Barbara’s statements. On these facts, Davis’s argument that he relied on Barbara’s statement regarding a change in status of a State-obtained no-contact order is unreasonable and does not negate the intent element of invasion of privacy. There was sufficient evidence to

⁶ Defendants can also check the status of proceedings at mycase.in.gov.

show Davis knowingly or intentionally violated the no-contact order. Thus, we affirm the trial court's conviction.

[11] Affirmed.

Altice, C.J., and Bradford, J., concur.

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