MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

Eli Burns,

Appellant-Defendant

v.

State of Indiana,

Appellee-Plaintiff

April 30, 2024

Court of Appeals Case No.
23A-CR-2954

Appeal from the Marion Superior Court

The Honorable James Osborn, Judge

Trial Court Cause No.
49D21-2308-F5-22858

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

Case Summary

[1] Eli Burns appeals his conviction for Class A misdemeanor invasion of privacy, arguing the evidence is insufficient to support it. We affirm.

Facts and Procedural History

[2] On June 22, 2023, Burns was charged with several counts of Level 4 felony child molesting and one count of Level 5 felony child solicitation under cause number 49D20-2306-F4-018016.[1] The alleged victim, V.W., is the thirteen-year-old daughter of Burns's girlfriend, Amanda Lyles. As a condition of Burns's pretrial release, the trial court issued a no-contact order prohibiting him from having contact with V.W. Ex. 5.

[3] The next day, an initial hearing was held at 9:00 a.m. Burns was present in person. According to the CCS in the child-molesting case, the no-contact order was served on Burns by "court staff" at 9:00 a.m., and Burns was "admonished" and "signed" it. Ex. 6, pp. 132-33.

[4] Less than a month later, on July 18, V.W., who no longer lived with her mother and Burns, was at a relative's house on Hillside Avenue in Indianapolis when she texted her mother and asked her to bring her some clothes. Amanda responded, "U kn[o]w [Burns] can't go over there," but said she would try to

[1] Burns's trial in the child-molesting case is currently scheduled for June 2024.

borrow his car. Ex. 1. Around 8:30 p.m. that night, Amanda texted V.W. to "come out." Ex. 2. V.W. went outside, and both Burns and Amanda were there. Marion County Community Corrections GPS records show that Burns was on Hillside Avenue at 8:30 p.m.

[5] Later that night, around 10:00 p.m., V.W. texted Amanda and asked if Burns could send Amanda money so V.W. could get some food. Fifteen minutes later, Amanda responded that Burns was getting her something to eat. Ex. 3. Later, Amanda texted V.W. to "come out." *Id.* When V.W. went outside, both Burns and Amanda were there. Burns pointed to his ankle monitor and asked V.W. to touch it; she refused. Community Corrections GPS records show that Burns was on Hillside Avenue between 10:49 p.m. and 10:53 p.m.

[6] The State charged Burns with Class A misdemeanor invasion of privacy for violating the no-contact order in the child-molesting case.[2] At the bench trial, the trial court admitted into evidence a certified copy of the no-contact order that shows Burns's signature on the second page:

[2] The State also charged Burns with Level 5 felony attempted obstruction of justice, but the trial court granted Burns's Trial Rule 41(B) motion to dismiss that charge.

CASE NUMBER: 49D20-2306-F4-018016

Dated: 6/22/2023

Judicial Officer

STATEMENT OF DEFENDANT

I have read the above Order and I understand it. I also understand that violation of this Order constitutes a violation of IC 35-33-8-3.2, punishable by a revocation of my bond or release on my personal recognizance. I further understand that violation of this Order may cause additional charges to be filed against me. A copy of this Order has been given to me this 23rd day of June, 2023.

Signature of Defendant

Ex. 5, p. 129. The court also admitted a certified copy of the CCS in the child-molesting case. In finding Burns guilty of invasion of privacy, the trial court explained that the evidence easily proved that Burns was in the presence of V.W. on Hillside Avenue. The court, however, found that it was a closer call as to whether Burns knew about the no-contact order. The court emphasized that the CCS showed the no-contact order was served on him and the no-contact order contained his signature. Responding to Burns's argument that the State didn't call any court staff from the child-molesting case to testify that they witnessed Burns sign the no-contact order, the court acknowledged that it couldn't be certain that the signature on the no-contact order was Burns's. However, it found the totality of the evidence showed that he knew about the no-contact order:

> [T]he record, along with the GPS monitor, the bracelet that he pointed out to V. that he had on his ankle at [the] time is sufficient for me to believe that he knew there was a no contact order in place and that he was in violation of that no contact order.

Tr. p. 111. The court sentenced Burns to time served (128 days).

[7] Burns now appeals.

Discussion and Decision

[8] Burns contends the evidence is insufficient to support his conviction for Class A misdemeanor invasion of privacy. When reviewing sufficiency-of-the-evidence claims, we neither reweigh the evidence nor judge the credibility of witnesses. *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015). We will only consider the evidence supporting the judgment and any reasonable inferences that can be drawn from the evidence. *Id.* A conviction will be affirmed if there is substantial evidence of probative value to support each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

[9] To convict Burns of Class A misdemeanor invasion of privacy as charged here, the State was required to prove beyond a reasonable doubt that he "knowingly violate[d] an order issued under I.C. 35-33-8-3.2 . . . under cause number 49D20-2306-F4-018016, to protect V.W." Appellant's App. Vol. II p. 48; Ind. Code § 35-46-1-15.1(a)(11). The only element that Burns challenges on appeal is whether he knew about the no-contact order. That is, he argues that "[w]hile

the evidence might have been sufficient for the court to 'believe' he had notice, the evidence was not sufficient to prove beyond a reasonable doubt that he had notice." Appellant's Br. p. 10.

[10] The record shows that a certified copy of the no-contact order—issued in Burns's name and under the cause number charging him with child molesting—was admitted that showed a signature in Burns's name, dated June 23, 2023. A certified copy of the CCS from that same cause number was also admitted showing that Burns's initial hearing was held on June 23, 2023, at 9:00 a.m., he appeared in person and was served with the no-contact order by "court staff" at 9:00 a.m., and he was "admonished" about the no-contact order and "signed" it. Notably, Burns does not argue the trial court erred in admitting these documents; rather, he only challenges the weight that should be given to them. These documents sufficiently prove that Burns knew about the no-contact order.

[11] But even if these two documents were not enough, there is additional evidence. When V.W. first texted her mother and asked her to bring her some clothes, Amanda responded, "U kn[o]w [Burns] can't go over there." The reasonable inference is that if Amanda knew about the no-contact order, so did Burns. The evidence is sufficient to prove that Burns knew about the no-contact order.

[12] Burns highlights things the State could have done at trial, such as having a member of the court staff in the child-molesting case testify that Burns was served with the no-contact order or calling a handwriting expert to prove that

the signature on the no-contact order was his. This, however, is just a request for us to reweigh the evidence the State **did** present, which we can't do. We therefore affirm Burns's conviction for Class A misdemeanor invasion of privacy.

[13] Affirmed.

May, J., and Kenworthy, J., concur.

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