



Appellant-defendant Ronnie Batts appeals from his conviction for Promoting Prostitution,<sup>1</sup> a class C felony. Specifically, Batts argues that the statute is unconstitutionally vague and that the evidence is insufficient to support his conviction. Finding no error, we affirm the judgment of the trial court.

### FACTS

On January 12, 2006, Batts rented Room 227 at the Knights Inn in Indianapolis. On that same day, Indianapolis Vice Detective Kurt Spivey was using Room 407 for a prostitution investigation. That afternoon, as Detective Spivey stood in the doorway of Room 407, a woman waved to him and he waved back. She signaled to the detective to come over to her location and he complied, whereupon she asked him if he “wanted to party.” Tr. p. 12. Detective Spivey asked if the party cost money, and she told him to call Room 227 to make arrangements.

Detective Spivey then telephoned Room 227 and Batts answered the phone. The detective told Batts that he wanted to “party with the girls,” and Batts replied, “All right. I’ll send them down later. Call back.” Tr. p. 14. Twenty minutes later, Detective Spivey again called Room 227 and Batts answered, telling him, “I’ll send them down. I’m doing business. Wait and I’ll call you back.” Id. at 15. Twenty minutes later, Batts called the detective and asked him “what kind of action” he wanted. Id. at 15, 43. Detective Spivey responded with a street term meaning fellatio, and Batts then handed the phone to a woman, who worked out the details with the detective.

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<sup>1</sup> Ind. Code § 35-45-4-4(5).

From the window in his room, Detective Spivey saw Batts and a woman, later identified as Jennifer Buttram, exit Room 227 and walk together to the detective's room. Batts stopped just short of the window to Room 407 and Buttram knocked on the door. Detective Spivey opened the door and Buttram entered the room. Batts waited outside momentarily and then returned to Room 227.

Buttram asked the detective if he was a police officer and he responded negatively. She then asked him if he had money and he responded affirmatively while displaying a roll of cash. While Detective Spivey spoke with Buttram, he observed Batts standing in front of Room 227, watching the detective's room. The detective and Buttram agreed that he would give her \$100 to start and then pay extra for additional services. Buttram then pulled her pants down to her knees and began manipulating her exposed genitalia, at which point Detective Spivey identified himself as a police officer and arrested her. He then radioed other police officers and instructed them to arrest Batts.

On January 17, 2006, the State charged Batts with class C felony promoting prostitution, class A misdemeanor possession of paraphernalia, class A misdemeanor criminal trespass, and class B misdemeanor criminal mischief. Batts waived his right to a jury trial and a bench trial was held on March 9, 2006. Before the trial commenced, the state amended the criminal mischief charge to a class A misdemeanor and dismissed the criminal trespass charge. At the conclusion of the State's evidence, the trial court granted Batts's motion for judgment on the evidence with respect to the possession charge. Ultimately, the trial court found Batts guilty of class C felony promoting prostitution and class A misdemeanor criminal mischief. On March 23, 2006, the trial court sentenced

Batts to five years imprisonment. Batts now appeals from his conviction for promoting prostitution.

## DISCUSSION AND DECISION

### I. Constitutionality of Statute

Batts first contends that the promoting prostitution statute is unconstitutionally vague. We observe that Batts neither filed a motion to dismiss on this basis nor objected to the constitutionality of the statute at trial. Thus, he has waived this argument on appeal. Adams v. State, 804 N.E.2d 1169, 1172 (Ind. Ct. App. 2004).

Waiver notwithstanding, we note that when the validity of a statute is challenged, we begin with a presumption of constitutionality. State v. Lombardo, 738 N.E.2d 653, 655 (Ind. 2000). The challenger bears the burden of rebutting this presumption and all reasonable doubts must be resolved in favor of the statute's constitutionality. Id. A statute is not unconstitutionally vague if individuals of ordinary intelligence would comprehend it adequately to inform them of the proscribed conduct. Vaughn v. State, 782 N.E.2d 417, 420 (Ind. Ct. App. 2003). The statute need only inform the individual of the generally proscribed conduct, and "need not list with itemized exactitude each item of conduct prohibited." Lombardo, 738 N.E.2d at 656. Vagueness challenges that do not involve First Amendment freedoms must be examined in light of the facts of the case at hand. Vaughn, 782 N.E.2d at 420.

Indiana Code section 35-45-4-4(5) provides that a person commits class C felony promoting prostitution if he "knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution . . . ." Batts argues that the phrase

“conducts or directs” is unconstitutionally vague as applied to him. “Conduct” is defined as “[l]ead, guide; escort.” The New Shorter Oxford English Dictionary 473 (Thumb Index ed. 1993). “Direct” is defined as “[c]ause to move in or take a specified direction . . . .” Id. at 679.

The evidence in the record establishes that Batts took charge of and facilitated the transaction between Detective Spivey and Buttram, and once the basic details had been discussed, Batts escorted Buttram to Detective Spivey’s hotel room so that she could engage in sexual activity with the detective for money. Given the above definitions of “conduct” and “direct,” it is apparent that a person of ordinary intelligence would understand that the statute proscribes that conduct. Thus, Batts’s constitutional challenge to the promoting prostitution statute must fail.

## II. Sufficiency of the Evidence

Batts next contends that the evidence is insufficient to support his conviction for promoting prostitution. It is well established that when considering a claim of insufficient evidence, we neither reweigh the evidence nor judge witness credibility. Wright v. State, 828 N.E.2d 904, 905 (Ind. 2005). Rather, we consider only the probative evidence and reasonable inferences that may be drawn therefrom that support the verdict. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). If the probative evidence and reasonable inferences could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt, we will affirm the conviction. Id. A conviction may be based entirely on circumstantial evidence. Franklin v. State, 715 N.E.2d 1237, 1241 (Ind. 1999).

As noted above, to convict Batts of promoting prostitution, the State was required to prove that Batts knowingly or intentionally conducted or directed Buttram to Detective Spivey's hotel room for the purpose of prostitution. I.C. § 35-45-4-4(5). Our review of the record reveals the following evidence supporting Batts's conviction: a prostitute advised Detective Spivey to call Batts's room, 227, to make arrangements to "party," tr. p. 12; Detective Spivey called Room 227, Batts answered, and eventually Batts called the detective back to ask him "what kind of action" he wanted, *id.* at 15, 43; Batts handed the telephone to a prostitute, who worked out the details with the detective, *id.* at 16, 43; Batts personally escorted Buttram to Detective Spivey's hotel room, *id.* at 18; Buttram then attempted to engage in sexual activity with the detective for money, *id.* at 18, 22-24. It is apparent that this evidence is sufficient to support Batts's conviction for promoting prostitution.

Batts argues that the evidence is insufficient because it does not establish that Buttram was led, physically held, threatened, or coerced in any way to walk to the detective's room and engage in an act of prostitution therein. But that is irrelevant because, as aptly put by the State, "the section of the statute at issue does not require the prostitute to be a sex slave in order for her business manager to be convicted as a pimp." Appellee's Br. p. 7.

Batts also argues that he merely left his hotel room, "accompanied by a woman, along a route that any person would have to take to go to a soda machine, the hotel office, or beyond the hotel grounds itself [sic]." Appellant's Br. p. 15. But the detective testified that Batts and Buttram walked directly to his room, where Batts stopped just

short of his window. Moreover, the soda machine was seventy to eighty feet from the detective's room and was not on the way from Room 227; similarly, the hotel office was in the opposite direction. It was within the trial court's discretion to find Detective Spivey's testimony more credible than Batts's, and Batts's argument is a mere invitation to reweigh the evidence—an invitation we decline.

The judgment of the trial court is affirmed.

NAJAM, J., and DARDEN, J., concur.