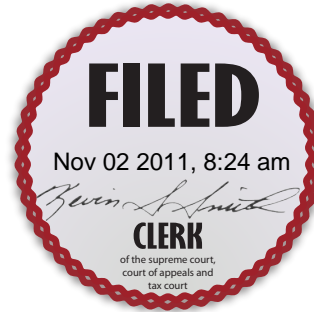


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

WILKIE BROOKS,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A02-1103-CR-278
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Charles A. Wiles, Senior Judge
Cause No. 49F18-0906-FD-56137

NOVEMBER 2, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Wilkie Brooks appeals his conviction for Class D felony resisting law enforcement. Ind. Code § 35-44-3-3 (2006). We affirm.

ISSUE

Brooks raises one issue: whether there is sufficient evidence to support his conviction.

FACTS AND PROCEDURAL HISTORY

On the night of June 13, 2009, Russell Stilwell, who was a courtesy officer for the Lakeside Pointe at Nora apartment complex in Indianapolis as well as a deputy with the Marion County Sheriff's Department, received a complaint about a disturbance involving people drinking and fighting in front of the apartments. When he arrived at the location, he saw ten to fifteen people outside with loud music. They were drinking and arguing. Deputy Stilwell, who was dressed in street clothes, first asked the group several times to turn the music down and then yelled at them to shut the music off. At that time, a man later identified as Brooks stood in front of Deputy Stilwell. Deputy Stilwell identified himself as a deputy sheriff, showed Brooks his badge, and told Brooks that he was also a courtesy officer for the apartment complex. Brooks responded, "[O]ld man, you and your badge, your tin badge don't mean anything to me and you keep up and you're going to get hurt." Tr. p. 5. Brooks smelled strongly of alcohol and had slurred speech. Deputy Stilwell ordered Brooks to turn around and put his hands behind his back and informed him that he was under arrest for public intoxication and disorderly conduct. Brooks did not comply and told Deputy Stilwell again that he "was going to get hurt." *Id.* at 6.

Deputy Stilwell reached for Brooks's arm, but Brooks "jerked away" from him and ran around a car. *Id.* When Deputy Stilwell grabbed him again, Brooks turned around and hit him in the face. The blow caused Deputy Stilwell pain, knocked him to the ground, and caused him to hurt his elbow. The group of people began to converge on Deputy Stilwell. Deputy Stilwell pulled out his weapon, pointed it straight into the air, and ordered them to get back. The group backed off, and Deputy Stilwell stood up and holstered his weapon. He tried again to get Brooks into handcuffs, but Brooks took off running around a building. Deputy Stilwell then called on his radio for assistance. Police officers from the Indianapolis Metropolitan Police Department arrived and were finally able to take Brooks into custody.

The State charged Brooks with Class D felony resisting law enforcement and two other counts. At a bench trial, Deputy Stilwell testified for the State and Brooks testified in his own defense. A friend of Brooks, who was at the scene, also testified on Brooks's behalf. The trial court found Brooks guilty of Class D felony resisting law enforcement and not guilty of the two other counts. He was sentenced to 545 days, with 180 days executed and 365 days suspended. Brooks now appeals.

DISCUSSION

Brooks contends that the evidence is insufficient to support his conviction. Our standard of review with regard to sufficiency claims is well settled. In reviewing a sufficiency of the evidence claim, this Court does not reweigh the evidence or judge the credibility of the witnesses. *Bond v. State*, 925 N.E.2d 773, 781 (Ind. Ct. App. 2010), *trans. denied*. We consider only the evidence most favorable to the judgment and the

reasonable inferences drawn therefrom and affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. *Id.* Reversal is appropriate only when reasonable people would not be able to form inferences as to each material element of the offense. *Id.*

To convict Brooks of Class D felony resisting law enforcement as charged here, the State had to prove beyond a reasonable doubt that Brooks knowingly and forcibly resisted, obstructed, or interfered with Deputy Stilwell while Deputy Stilwell was lawfully engaged in the execution of his duties as a law enforcement officer and further that Brooks inflicted bodily injury on Deputy Stilwell in the form of “pain and/or an abrasion.” Appellant’s App. p. 18; *see* Ind. Code § 35-44-3-3.

Brooks challenges only the sufficiency of the evidence showing that he knew that Deputy Stilwell was a law enforcement officer. Indeed, to be convicted of resisting law enforcement, the evidence must show that the defendant knew or had reason to know that the person resisted was a law enforcement officer. *Mason v. State*, 944 N.E.2d 68, 71 (Ind. Ct. App. 2011), *trans. denied*.

The evidence most favorable to the judgment shows that when Deputy Stilwell first encountered Brooks, he identified himself as a deputy sheriff and showed Brooks his badge. Brooks even acknowledged Deputy Stilwell’s position as a law enforcement officer by responding that “your tin badge don’t mean anything to me.” Tr. p. 5. Despite this clear evidence, Brooks presents a different version of what occurred. His arguments, however, are merely an invitation to reweigh the evidence, which we will not do. The

evidence shows that Brooks knew or had reason to know that Deputy Stilwell was a law enforcement officer. The evidence is thus sufficient to sustain his conviction.

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

NAJAM, J., and MATHIAS, J., concur.