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IN THE COURT OF APPEALS OF INDIANA

ERICA BALL,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1103-CR-132
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Reuben B. Hill, Judge
Cause No. 49F18-0911-CM-95455

November 29, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Erica Ball challenges her conviction of Class B misdemeanor disorderly conduct.[1] Ball argues the evidence was insufficient to support her conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

On October 29, 2009, Erica Ball wanted to retrieve her young cousin from his classroom at I.P.S. School No. 43. When Ball arrived at the front office of the school, head secretary Shannon Marshall informed Ball that she could not retrieve her cousin because the school was in the process of dismissing students for the day. Marshall testified Ball began "ranting and raving" and then Ball "demanded" her cousin be brought to her. (Tr. at 9.) Principal McDowell requested Ball leave the premises, but Ball instead exited the office and entered the hallway where children were being dismissed from class. Principal McDowell followed Ball into the hallway, where Ball proceeded to curse loudly at Principal McDowell while in the presence of both children and parents. Crystal Johnson, a school social worker who was in the hallway at the time of the incident, testified that Ball loudly called Principal McDowell "bitch" and "M.F." (*Id.* at 20.) Principal McDowell then contacted police.

The State charged Ball with Class D felony intimidation[2] and Class B misdemeanor disorderly conduct. At a bench trial on March 1, 2011, the State dismissed the intimidation charge, and the court convicted Ball of disorderly conduct. It imposed a sentence of 180 days in the Marion County Jail with all but 10 days to be served on probation, fines and costs in the amount of $300.00, six weeks of anger management classes, and forty hours of

[1] Ind. Code § 35-45-1-3(a).
[2] Ind. Code § 35-45-2-1.

community service.

DISCUSSION AND DECISION

In reviewing sufficiency of evidence, we may not reweigh evidence or judge credibility of witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the trial court's decision, *id.*, and affirm unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." *Jenkins v. State*, 726 N.E.2d 268, 270 (Ind. 2000).

"A person who recklessly, knowingly, or intentionally . . . makes unreasonable noise and continues to do so after being asked to stop" commits disorderly conduct. Ind. Code § 35-45-1-3(a). Noise is considered unreasonable if it is too loud for circumstances that exist at the time. *Whittington v. State*, 669 N.E.2d 1363, 1367 (Ind. 1996). We consider each contested element separately.

Ball first argues she did not make "unreasonable noise." The facts most favorable to the trial court's decision indicate Ball was cursing loudly in an elementary school hallway while surrounded by young children and, although Marshall remained in her office, she could hear Ball cursing in the hallway. These facts support finding Ball was making noise that was unreasonable for the circumstances.

Ball also argues the evidence is insufficient because she was never asked to stop making unreasonable noise, and instead was asked to leave the premises. Though we have never expressly held that being asked to leave the premises is the equivalent of being asked to stop, we implied as much in *Woods v. State*, 703 N.E.2d 1115 (Ind. Ct. App. 1998). In that

case, the general manager of an athletic club asked Woods to leave the club because she was making unreasonable noise. *Id.* at 1116. When Woods refused to leave, she was arrested and charged with trespassing. While we held Woods could not be convicted of trespassing because her membership gave her a right to be at the club, we noted she could have been found guilty under Indiana's disorderly conduct statute because Woods' membership did not entitle her to make unreasonable noise and disrupt activities at the athletic club. *Id*. at 1118. Applying the reasoning of Woods to the facts herein leads us to conclude Ball was asked to stop making unreasonable noise when she was asked to leave the school. Thus, when Ball went into the hallway and continued to make unreasonable noise, she committed disorderly conduct.

Ball's arguments are invitations for us to reweigh the evidence and judge the credibility of the witnesses, which we may not do. *See McHenry*, 820 N.E.2d at 126. Accordingly, we affirm Ball's conviction of Class B misdemeanor disorderly conduct.

Affirmed.

NAJAM, J., and RILEY, J., concur.