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IN THE
COURT OF APPEALS OF INDIANA

MARVIN WILLIS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

No. 82A01-0606-CR-242

APPEAL FROM THE VANDERBURGH SUPERIOR COURT
The Honorable Terrell R. Maurer and Allen R. Hamilton, Magistrates
Cause No. 82D05-0512-CM-8201

November 30, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Marvin Willis appeals his conviction following a bench trial for disorderly conduct, as a class B misdemeanor.[1]

We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

On the night of November 2, 2005, Officer Lenny Reed of the Evansville Police Department was working off-duty at a bar located "in a business complex . . . on a residential street." (Tr. 26). Officer Reed noticed Willis sitting in the bar and thought he recognized Willis as someone he had barred from the premises. Officer Reed approached Willis, identified himself to Willis and asked Willis "to step outside" so he could "speak to him." (Tr. 16). Willis followed Officer Reed outside the bar, whereupon Willis became "very argumentative . . . ." (Tr. 16). Willis started "screamin[g] and yellin[g] at the top of his lungs at [Officer Reed] . . . ." (Tr. 17). Officer Reed "asked him several times just to calm down and be quiet . . . ." (Tr. 16). Willis, however, refused to comply with Officer Reed's requests. Willis's screaming and yelling "drew the attention of . . . not only people inside the bar but people in the parking lot as well." (Tr. 28). Believing Willis to be intoxicated, Officer Reed placed Willis under arrest.

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[1] Ind. Code § 35-45-1-3(a)(2).

On December 5, 2005, the State charged Willis with public intoxication, as a class B misdemeanor, and disorderly conduct, as a class B misdemeanor. The trial court held a bench trial on January 19, 2006, during which Willis acted as his own counsel. The trial court found Willis guilty of disorderly conduct. The trial court sentenced Willis to a suspended sentence of ninety days in the Vanderburgh County Jail, imposed a fine of ten dollars and ordered Willis to pay court costs.

DECISION

Willis asserts the evidence is insufficient to sustain his conviction. Specifically, Willis argues "[t]here is insufficient evidence in the record for the trial court to base its conclusion that Willis was making unreasonable noise under the circumstances." Willis's Br. 4.

Our standard of review for sufficiency of the evidence is well settled. We will neither reweigh the evidence nor judge the credibility of witnesses. *Snyder v. State*, 655 N.E.2d 1238, 1240 (Ind. Ct. App. 1995). We examine only the evidence most favorable to the judgment along with all reasonable inferences to be drawn therefrom, and, if there is substantial evidence of probative value to support the conviction, it will not be set aside. *Id.*

In order to convict Willis of disorderly conduct, the State must prove beyond a reasonable doubt that Willis "recklessly, knowingly, or intentionally . . . ma[de] unreasonable noise and continue[d] to do so after being asked to stop." I.C. § 35-45-1-3(a)(2). "To sustain a conviction, the State must show that the complained-of speech

infringed upon the right to peace and tranquility enjoyed by others." *Mitchell v. State*, 813 N.E.2d 422, 428 (Ind. Ct. App. 2004), *trans. denied*.

The evidence shows that Willis screamed and yelled at the "top of his lungs" and continued to do so even after Officer Reed asked him to be quiet. Willis's outbursts took place on a residential street, late at night, and attracted the attention of people both inside the bar and in the bar's parking lot. Thus, it is clear that Willis "produced decibels of sound that were too loud for the circumstances." *Whittington v. State*, 669 N.E.2d 1363, 1367 (Ind. 1996). Accordingly, we find the evidence is sufficient to sustain Willis's conviction.

Affirmed.

NAJAM, J., and FRIEDLANDER, J., concur.