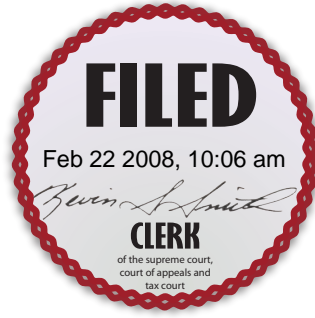


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

ROBERT STOGSDILL,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 71A04-0709-CR-537

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable William Albright, Senior Judge
Cause No. 71D01-0702-FC-34

February 22, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Robert Stogsdill appeals his conviction for Operating a Motor Vehicle After a Lifetime Suspension of Driving Privileges, a Class C felony, following a jury trial. Stogsdill presents a single issue for review, which we restate as whether the evidence is sufficient to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

Shortly after midnight on February 11, 2007, Mishawaka Police Officer Bryan Fox initiated a traffic stop after observing a silver vehicle disregard a stop sign. Stogsdill, the vehicle's driver, stated that he was taking the passenger, his girlfriend Nichol Potter, to the hospital. When dispatch advised Officer Fox that Stogsdill was a habitual traffic violator and had a lifetime suspension of his driver's license, Fox arrested Stogsdill. Potter asked Officer Fox to call paramedics, who arrived at the scene approximately eight minutes later.

Two paramedics evaluated Potter at the scene. Potter told Paramedic Richard Leach that she and Stogsdill had been on their way home when they were pulled over and "that [Stogsdill] was being arrested which got her upset and sent her into a panic attack." Transcript at 168. Potter refused transport to the hospital, and she later drove herself home.

The State charged Stogsdill with operating a motor vehicle after a lifetime suspension of driving privileges, a Class C felony. The court held a jury trial beginning May 31, 2007, and on June 1, 2007, the jury returned a guilty verdict. The court

sentenced Stogsdill to five years, with credit for 169 days served, and imposed a lifetime driving privilege suspension in the State of Indiana. The sentence was to run consecutive to the sentence imposed in another case. Stogsdill now appeals.

DISCUSSION AND DECISION

Stogsdill contends that his conviction for operating a motor vehicle after a lifetime suspension of driving privileges should be reversed because an extreme medical emergency existed. In support, Stogsdill cites to Indiana Code Section 9-30-10-18, but he does not set forth the substance of that statute. Section 9-30-10-18 provides an extreme emergency defense to the charge of operating a motor vehicle after a lifetime suspension of driving privileges. Thus, in essence, Stogsdill contends that, based on the extreme emergency defense, the evidence is insufficient to support his conviction.

When reviewing the claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Indiana Code Section 9-30-10-17 provides that “[a] person who operates a motor vehicle after the person’s driving privileges are forfeited for life . . . commits a Class C felony.” Indiana Code Section 9-30-10-18 provides that “it is a defense that the operation of a motor vehicle was necessary to save life or limb in an extreme emergency. The defendant must bear the burden of proof by a preponderance of the evidence to establish

this defense.” Here, as of the night of the traffic stop, Stogsdill and Potter had recently moved in together, and Potter was approximately one month pregnant. Stogsdill testified that he decided to take Potter to the hospital because she was having an asthma attack and a panic attack and that he took the most direct route to the hospital. But the evidence most favorable to the verdict shows that Potter told one of the paramedics that Stogsdill was pulled over as the two were on their way home and that Stogsdill’s arrest caused her panic attack; Potter did not tell him that she was pregnant. And, after evaluation by the paramedics, Potter refused the paramedics’ offer to take her to the hospital, and she went home instead. Also, Stogsdill took a route that contained a railroad crossing, yet he could have taken a more direct route that was not impeded by train traffic.

Stogsdill argues that “sufficient evidence existed for the jury to conclude that Stogsdill was operating his motor vehicle in an extreme medical emergency and therefore was excused from his violation of [Indiana Code Section] 9-30-10-17.” Appellant’s Brief at 2. But Stogsdill’s argument amounts to a request that we reweigh the evidence, which we cannot do. See Jones, 783 N.E.2d at 1139. Thus, we conclude that the evidence is sufficient to support Stogsdill’s conviction.

Affirmed.

BAILEY, J., and CRONE, J., concur.