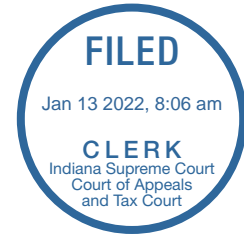


MEMORANDUM DECISION

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

Candace Lynn (Pindara)
Anderson,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 13, 2022

Court of Appeals Case No.
21A-CR-1655

Appeal from the Lake Superior
Court

The Honorable Samuel L. Cappas,
Judge

Trial Court Cause No.
45G04-1903-F4-36

Weissmann, Judge.

- [1] Candace Anderson appeals her conviction for arson, arguing that the evidence was insufficient to prove beyond a reasonable doubt that she set the fire. Although no direct evidence indicates that Anderson was present when the fire was set, the State’s circumstantial evidence reasonably supported the conclusion that Anderson was the arsonist. We therefore affirm.

Facts

- [2] Anderson and her husband rented a home from the Greener family trust for about 2 ½ years. When the Greener family decided to sell, they evicted the Andersons. By February 28, 2016, the Andersons had packed and moved most of their things. Sometime in the late afternoon, both Andersons left the premises. Anderson’s husband left first. According to surveillance footage, Anderson was on the road by 4:49 p.m. Tr. Vol. III, pp. 108, 114. Between 5:31 and 5:37 p.m., Anderson was shopping at a CVS. *Id.* at 114.
- [3] Around 5:30 p.m. or so, Michelle Dziezak saw smoke coming from the property as she drove by. She pulled into the home’s driveway and called 9-1-1. The fire department was dispatched around 5:42 p.m. As Dziezak was waiting for the fire department to arrive, Anderson returned. Dziezak testified that Anderson “seemed pretty upset” about the eviction, but “[s]he didn’t seem as if the fire was a concern.” *Id.* at 5, 6. The first official from the fire department arrived at 5:46 p.m. Firefighters forced their way through the front door because all of the doors were locked. They then extinguished the fire, which was concentrated on the second floor.

- [4] The investigating fire marshal determined that the fire was deliberately set. The fire marshal based this opinion on physical evidence documented at the scene. Downstairs, he documented newspapers soaked with oil spread on the floor, newspapers hanging over a hutch, a window propped open with a paint stick, and an upturned oil lantern. Upstairs, he documented a broken oil lantern and a partially opened window. The fire marshal also noted the smell of petroleum and an unusual burn pattern that could have been produced by pouring an ignitable liquid. Samples taken at the scene tested positive for ignitable liquids. An insurance company's private investigator also determined that the fire was deliberately set and originated on the second floor.
- [5] During a walkthrough with the fire marshal the day after the fire, Anderson "immediately went straight towards those newspapers that were sprawled out on the floor and began cleaning them up." *Id.* at 39. Later, the fire marshal and a detective both interviewed Anderson. She told investigators she was upset about the eviction and that newspaper was scattered around the home as part of the normal moving process. Anderson also submitted, but later withdrew, an insurance claim for her belongings damaged in the fire.
- [6] Three years after the fire, the State charged Anderson with one count of arson, a Level 4 felony. A jury found Anderson guilty as charged, and the court sentenced her to 4 years in the Department of Correction, with 3 years suspended and 1 year to be served in community corrections. She now appeals, arguing that the evidence is insufficient to support her conviction.

Discussion and Decision

- [7] Anderson claims the State failed to prove beyond a reasonable doubt that she was present in the home when the fire started, let alone that she set the fire. When reviewing the sufficiency of the evidence, we consider only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We will not reweigh evidence or judge the credibility of witnesses. *Id.* The identity of a perpetrator may be established solely by circumstantial evidence. *Shepherd v. State*, 157 N.E.3d 1209, 1218 (Ind. Ct. App. 2020). We need not determine if the circumstantial evidence is enough to overcome every reasonable hypothesis of innocence; rather, we examine whether inferences may reasonably be drawn from that evidence to support the verdict beyond a reasonable doubt. *Bustamante v. State*, 557 N.E.2d 1313, 1318 (Ind. 1990).
- [8] We cannot say that the jury's inference of guilt was unreasonably drawn. The State was required to prove beyond a reasonable doubt the following elements: (1) Anderson (2) by means of fire, explosive, or destructive device (3) knowingly or intentionally (4) damaged (5) a dwelling of another person without the other person's consent. *See* Ind. Code § 35-43-1-1. Anderson only really challenges the first element, that she was the one who started the fire. Anderson argues the evidence is insufficient because the State failed to show when the fire started. This missing piece is essential, Anderson argues, because

she was not present at the home for as long as 1 hour and 42 minutes before the fire department was called.¹

[9] The State relies on circumstantial evidence to pin the crime on Anderson, as is common in arson cases. *Belser v. State*, 727 N.E.2d 457, 464 (Ind. Ct. App. 2000). Anderson was upset about her eviction, which was evidence of motive. Anderson was the last known person in the house before the fire, giving her opportunity. The only signs of forced entry were attributable to the fire department. When Anderson came home to the house on fire, she did not seem concerned. She tried to clean up evidence of the arson. And Anderson submitted and withdrew an insurance claim for her belongings damaged in the fire. “Although standing alone, evidence of motive, presence, or opportunity is insufficient to prove guilt,” this evidence is sufficient when taken together. *Belser*, 727 N.E.2d at 465. We will not reweigh this evidence. *Drane*, 867 N.E.2d at 146. The jury could have reasonably concluded that Anderson set the fire, and in arson cases we defer to the jury’s determination that the defendant set the fire. *Belser*, 727 N.E.2d at 464.

[10] The judgment of the trial court is affirmed.

Najam, J., and Vaidik, J., concur.

¹ Anderson appears to base this timeframe on police testimony that she left the house between 4 and 4:30 p.m. Tr. Vol. III, p. 114. The same testimony indicates that the fire department was dispatched at 5:42. *Id.* at p. 115. Anderson returned to the property before the fire department arrived.