MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Terrence Terrell Jones-Bey,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

February 19, 2021

Court of Appeals Case No. 20A-CR-1544

Appeal from the Lake Superior Court

The Honorable Kathleen A. Sullivan, Magistrate

Trial Court Cause No. 45G02-2007-MC-913

May, Judge.

[1] Terrence Terrell Jones-Bey appeals the trial court's finding that he was in direct contempt. He argues the trial court's order did not comply with Indiana Code section 34-47-2-4, which requires the trial court to, in a written statement, "distinctly state the act, words, signs, gestures, or other conduct" that led the trial court to find Jones-Bey in contempt. We affirm.

Facts and Procedural History

[2] On July 22, 2020, Jones-Bey appeared in person before the trial court to address a pending petition to revoke his probation. The hearing included many exchanges between Jones-Bey and the trial court, for example:

> [Court]: All, Mr. Jones, you understand you're under oath?
>
> [Jones-Bey]: I'm under oath?
>
> [Court]: Do you understand that?
>
> [Jones-Bey]: No, I ain't under oath. I ain't never entered under no oath. My word is boss; I didn't enter under no oath.
>
> [Court]: Okay. When I started this hearing, I said – I placed everybody under oath, "Do you swear or affirm under the penalties for perjury" . . .
>
> [Jones-Bey]: I said I affirm.

(Tr. Vol. II at 4) (errors in original). The trial court asked Jones-Bey to spell his name and provide his birth date and social security number. Jones-Bey

eventually answered those questions, but not until after the trial court repeated its requests.

[3] The trial court then explained that the purpose of the hearing was to address the pending petition to revoke Jones-Bey's probation. The trial court next moved to the issue of Jones-Bey's legal representation:

> [Court]: Are you able to hire an attorney?
>
> [Jones-Bey]: No, because you all got all my finances locked in. That's why I walked here. You all got my ID, you all got – somebody released by credit cards and it's in the negative. Can't even book 'em. So no, I don't have no finances. I walked in here.
>
> [Court]: I understand. I'm just asking you –
>
> [Jones-Bey]: -- my finances. Like as in radical form.
>
> [Court]: Okay, I need you to be quiet for just a moment, sir. I just need to know whether to appoint a public defender or not. Apparently, I need to. Do you have any more money today than you did back when Susan Severtson was appointed before?
>
> [Jones-Bey]: You all got my money. You all stop playing with me –
>
> [Court]: Okay, I'm done with him. We're not going to see him again until next week. He's no bail, and he'll remain no bail until I see him next week.
>
> (DEFENDANT OVERTURNS TABLE IN COURTROOM)

[Court]: Okay, bring him back. Bring him back, Dennis. Bring him back.

[Jones-Bey]: What's happening –

[Court]: Nope. I am going to let the record reflect that the defendant was non-responsive to my questions. When I told him to be removed from the courtroom, he threw the table. So now I am finding him in direct criminal contempt of court. If he wants to say anything before I impose sentence, to say I'm sorry, this is his chance. Did you want to say anything, sir?

[Jones-Bey]: I apologize.

[Court]: All right. I'm still holding him in contempt, but instead of six months, I will just give him –

[Jones-Bey]: (Inaudible).

[Court]: Nope, too bad. Now it's six months. Six months in the Lake County jail, straight time, no good time credit.

(DEFENDANT FIGHTING WITH OFFICERS)

(*Id*. at 8-9) (errors in original) (formatting in original). The trial court entered an order the same day finding Jones-Bey in direct criminal contempt "[b]ased on the defendant's violent and disruptive behavior during the court proceedings" and sentencing him to six months in the Lake County Jail with no good time credit. (App. Vol. II at 5.)

[4] On August 18, 2020, the trial court held a hearing via Zoom to discuss Jones-Bey's request to reduce his sentence for contempt. During that hearing, Jones-Bey's attorney stated, before Jones-Bey entered the call, "[w]e recognize that my client's behavior was completely inappropriate and disrespectful to the Court, and I know that he is extremely regretful for the way that he treated the Court in this process when he was last in court." (Tr. Vol. II at 10-1.) The trial court noted that, presumably in addition to his actions in court on July 22, Jones-Bey "broke the phone in the jail and there was a period of time where nobody could speak to their attorneys." (*Id*. at 11.)

[5] The trial court stated, regarding Jones-Bey's request that his sentence for contempt be reduced:

> [Court]: Yes. So at this point I'm not willing to do that because of what occurred, which is probably one of the worst things that's ever occurred in my presence that I've held someone in contempt for. The throwing of the table and the equipment flying, the video screen in the jail was almost broken, which would have shut everybody down. The entire process, all the cases we Zoom would have had to stop until we could get a new monitor over there for us to continue the Zoom hearings. In light of that, I'm not willing to revisit the sentence that I imposed on the contempt.
>
> [Jones-Bey's Attorney]: At this juncture, or at all?
>
> [Court]: I'm going to say at all. I think that that was – I could have – Quite frankly, after that occurred, there was a fight in the well of the jail between your client and the officers that were there, and I could have held him in contempt more than

> once and I didn't, so he got a break on that. I let that go. So I'm not willing to revisit it again.

(*Id*. at 13-14.) At some point in time, Jones-Bey entered the Zoom call. After the trial court's denial of his request to reduce his sentence for contempt, Jones-Bey requested permission to file a motion to retrieve money he alleged officers stole from him. He then fired his attorney stating he was "capable, mentally, physical to speak on my own behalf. I'm a master[.]" (*Id*. at 15.) The trial court encouraged Jones-Bey to speak to his attorney outside of the hearing, and the hearing ended shortly thereafter.

Discussion and Decision

[6] When finding a defendant in direct contempt, the trial court "shall distinctly state the act, words, signs, gestures, and other conduct of the defendant that is alleged to constitute the contempt." Ind. Code § 34-47-2-4(b). "[A] mere recital of the trial court's conclusions is not sufficient to satisfy the requirement[.]" *Andrews v. State*, 505 N.E.2d 815, 827 (Ind. Ct. App. 1987).

> The requirement of a written statement describing the allegedly contumacious conduct is an important and fundamental step in an otherwise summary procedure. The purpose behind the requirement is twofold. It provides the alleged contemnor with a concise record of why he was found in contempt and thus assists him in setting his course for an appeal. But more importantly, it works to diminish the possibility of arbitrary and rash action on the part of the trial judge, since he is forced to articulate the basis for his finding. The reviewing court is therefore provided with a

> clear statement of the nature of the allegedly contumacious conduct.

Skolnick v. State, 80 Ind. App. 253, 263, 388 N.E.2d 1156, 1163-4 (1979), *reh'g denied*, *cert. denied* 445 U.S. 906 (1980). However, an insufficient written statement does not warrant reversal if the reviewing court is able to determine the reasons for the trial court's ruling from the record before it. *Id*. at 263, 388 N.E.2d at 1164. When reviewing the trial court's finding of contempt, we will accept as true the statement entered by the trial court. *Davidson v. State*, 836 N.E.2d 1018, 1020 (Ind. Ct. App. 2005). We will interfere with the trial court's judgment only when "it clearly appears the acts do not constitute contemptuous acts." *Id*.

[7] Jones-Bey argues the trial court's written statement regarding the contempt finding against him did not comport with the requirements of Indiana Code section 34-47-2-4(b). In its order, the trial court stated, "[b]ased on the defendant's violent and disruptive behavior during the court proceedings, the court finds the defendant in direct criminal contempt." (App. Vol. II at 5.) While we agree the statement in the order is brief, we do not review the issue in a vacuum, and the record before us gives us sufficient information regarding the reasons for the trial court's decision to find Jones-Bey in contempt.

[8] The transcript reveals Jones-Bey was consistently evasive and flippant when answering the trial court's identifying questions, and then threw a table and fought with officers in the courtroom. The trial court allowed Jones-Bey an opportunity to explain his actions, as required by Indiana Code section 34-47-2-

4(c). He apologized and then said something unintelligible. The trial court subsequently sentenced him to six months in the Lake County Jail with no good time credit. Based thereon, we conclude the record contains sufficient information from which we can review the trial court's decision to find Jones-Bey in contempt, Jones-Bey was not prejudiced in his appeal by any deficiency in the trial court's written statement, and there exists information sufficient to support the trial court's contempt finding. *See Smith v. State*, 893 N.E.2d 1149, 1152 n.1 (Ind. Ct. App. 2008) (reversal is not warranted when the reviewing court can ascertain the reason for the trial court's contempt finding even if the trial court did not issue a sufficiently worded written statement).

Conclusion

[9] The trial court's written statement pursuant to Indiana Code section 34-47-2-4(b) is sufficient as it, in combination with the record, has adequately enabled us to review the finding of Jones-Bey's contempt. In reviewing such, we conclude there exists evidence to support the trial court's finding of contempt. Accordingly, we affirm.

[10] Affirmed.

Kirsch, J., and Bradford, C.J., concur.