

## MEMORANDUM DECISION

Pursuant to 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

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Patricia Buie,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 30, 2021

Court of Appeals Case No.  
21A-CR-536

Appeal from the Marion Superior  
Court

The Honorable Charnette D.  
Garner, Judge

Trial Court Cause No.  
49D35-2006-CM-18283

**Riley, Judge.**

## STATEMENT OF THE CASE

- [1] Appellant-Defendant, Patricia Buie (Buie), appeals her conviction for battery by bodily waste, a Class B misdemeanor, Ind. Code § 35-42-2-1(c)(2).
- [2] We affirm.

## ISSUE

- [3] Buie presents this court with one issue on appeal, which we restate as: Whether the State presented sufficient evidence beyond a reasonable doubt to sustain her conviction.

## FACTS AND PROCEDURAL HISTORY

- [4] In May 2020, Buie was employed by the United States Postal Service in the late night shift at a mail processing facility in Indianapolis, Indiana. On May 8, 2020, she became involved in a verbal disagreement with her immediate supervisor, Rebecca Joseph (Joseph). In turn, Joseph reported the verbal altercation to her immediate manager, Dixie Hoopengartner (Hoopengartner). Joseph explained that she had to move Buie to a different area due to her poor job performance.
- [5] When Hoopengartner arrived in the building, she observed Buie ignore Joseph who was trying to get Buie's attention. However, when Hoopengartner addressed Buie, Buie looked up and stated that she "would like to speak to [her], but would not speak with [Joseph] because she wasn't a real supervisor." (Transcript p. 9). Hoopengartner advised Buie that she needed to speak with

Joseph as Joseph was her immediate supervisor. Buie ignored her and walked away. Hoopengartner followed Buie, who continued to ignore her. After giving Buie a direct order to stop, which was again ignored by Buie, Hoopengartner told her to “clock out and leave” as she was being insubordinate. (Tr. p. 10). Both Hoopengartner and Joseph escorted Buie to pick up her personal items. After Buie grabbed her purse, she “slung it around above her head.” (Tr. p. 11). When Hoopengartner requested Buie to hand over her personal ID badge, Buie threw the badge on the floor and spat on it. As Joseph was bending down to pick up the badge, Buie spat in Joseph’s face. At that point, Hoopengartner told Buie to leave immediately and that an investigative interview would be conducted at a later time. In response, Buie “actually turned her body completely around, threw her leg back, and came at [her] in . . . the spitting fashion” about five times. (Tr. p. 12). As Buie was being escorted out of the employee entrance, there was “some spitting [] involved.” (Tr. p. 23). Hoopengartner testified that the spitting was intentional and that some of it landed on her face and arm.

[6] Indianapolis Metropolitan Police Department Officer Tyler Haubenstricker (Officer Haubenstricker) was dispatched to the mail processing center for “trouble with a person involving an employee.” (Tr. p. 21). Upon arrival, and after speaking with Hoopengartner and Joseph, Officer Haubenstricker located Buie sitting in her vehicle in the employee parking lot. During his conversation with Buie, Buie admitted to Officer Haubenstricker that “some spiting [] was involved while she was leaving the building.” (Tr. p. 23).

[7] On June 5, 2020, the State filed an Information, charging Buie with battery by bodily waste, a Class B misdemeanor. On March 22, 2021, a bench trial was conducted, at the close of which Buie was found guilty as charged. The trial court sentenced Buie to two days executed and 178 days suspended to probation.

[8] Buie now appeals. Additional facts will be provided if necessary.

## DISCUSSION AND DECISION

[9] Buie contends that the State failed to establish beyond a reasonable doubt that sufficient evidence existed to sustain her conviction. “When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences *supporting* the verdict[,]” and this court will neither assess witness credibility nor reweigh the evidence. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007) (internal quotation marks and citation omitted) (emphasis in original). We will affirm a conviction “unless no reasonable factfinder could find the elements of the crime proved beyond a reasonable doubt.” *Id.* (internal quotation marks and citation omitted). Additionally, our Indiana Supreme Court has explained that “when determining whether the elements of an offense are proven beyond a reasonable doubt, a fact-finder may consider both the evidence and the resulting reasonable inferences.” *Thang v. State*, 10 N.E.3d 1256, 1260 (Ind. 2014).

[10] To convict Buie of battery by bodily waste, the State was required to establish that Buie knowingly or intentionally, in a rude, insolent, or angry manner,

placed bodily fluid or waste on Hoopengartner. *See* I.C. § 35-42-2-1(c)(2). A person engages in conduct “intentionally” if, when she engages in the conduct, it is her conscious objective to do so. *See* I.C. § 35-41-2-2(a). A person engages in conduct “knowingly” if, when she engages in the conduct, she is aware of a high probability that she is doing so. *See* I.C. § 35-41-2-2(b).

[11] Focusing solely on her own testimony, Buie asserts that her actions lacked the statutorily required intent or knowledge because she was overwhelmed by anxiety when confronted by Hoopengartner. Buie claimed that “she had a hard time making any clear-cut decisions” and the “joint confrontation by the two supervisors, the raised voices, and the orders to leave the building, caused [her] to have an anxiety attack.” (Appellant’s Br. pp. 10-11). In essence, Buie is requesting this court to reweigh the testimony and to reject the evidence in support of the trial court’s verdict, which we decline to do. *See Drane*, 867 N.E.2d 146.

[12] Nevertheless, we must conclude that the State carried its burden of proof as Buie’s conduct demonstrated intentional actions. Immediately prior to the spitting, Buie openly defied Hoopengartner’s several requests to stop and speak with her. Not only did she ignore invitations to solve the dispute, Buie also refused to surrender her ID badge when asked four times. When Buie finally complied, she threw her ID badge on the floor and spat. She then spat directly in Joseph’s face when Joseph bent down to retrieve the badge. After being told to leave the premises and being escorted out by Hoopengartner, Buie spat in Hoopengartner’s face. She repeated the spitting “at least five times.” (Tr. p. 14).

Hoopengarner testified that Buie’s actions were “very intentional” and that this was a “definite intentional spit.” (Tr. pp. 13-14). Moreover, Buie admitted to Officer Haubenstricker that “some spitting [] was involved while she was leaving the building.” (Tr. p. 23). As such the confrontation between Buie and her supervisors had been on-going for a while, giving her time to become aware and reflect upon her actions prior to the spitting. While a single spit could have been done unintentionally, Buie’s repeated spitting during two separate incidents and with two separate victims lead us to conclude that she acted knowingly, if not intentionally. *See Wells v. State*, 555 N.E.2d 1366, 1371 (Ind. Ct. App. 1990) (intent to commit battery may be determined from consideration of conduct and natural and usual sequence to which conduct logically and reasonably points). Accordingly, based on Buie’s actions and her admission to the responding officer, we find that the State presented sufficient evidence beyond a reasonable doubt to sustain Buie’s conviction.

## CONCLUSION

- [13] Based on the foregoing, we conclude that the State presented sufficient evidence beyond a reasonable doubt to support Buie’s conviction for battery by bodily waste.
- [14] Affirmed.
- [15] Najam, J. and Brown, J. concur