

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Deonte Lovell Smith,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

May 9, 2022

Court of Appeals Case No.
21A-CR-2595

Appeal from the Marion Superior
Court

The Hon. James B. Osborn,
Judge

Trial Court Cause No.
49D21-1911-CM-44793

Bradford, Chief Judge.

Case Summary

- [1] In November of 2019, police were called to the Wheeler Mission in Indianapolis because of Deonte Smith's disruptive behavior. Indianapolis Metropolitan Police Officer Christopher Williams arrived to find Smith arguing with staff members, one of whom asked him to leave, which he did not do. After Officer Williams ordered Smith to leave, and when he did not, Officer Williams decided to arrest him and attempted to place him in handcuffs. Smith forcefully pushed one of Officer Williams's arms when Officer Williams was attempting to place a handcuff on Smith and forcibly resisted when Officer Williams was attempting to remove him from the facility. The State charged Smith with Class A misdemeanor resisting law enforcement and Class A misdemeanor criminal trespass, and the trial court found him guilty of resisting law enforcement. Smith contends that the State failed to produce sufficient evidence to sustain his conviction. Because we disagree, we affirm.

Facts and Procedural History

- [2] At around 6:00 p.m. on November 2, 2019, Officer Williams was dispatched to the Wheeler Mission due to a disturbance. Officer Williams arrived at the Wheeler Mission and found Smith screaming and arguing with the staff in the day room. One of the staff members told Smith to leave, but he did not. Officer Williams also told Smith to leave, and, although Smith began to move toward the door, he turned around and continued to yell instead of leaving.
- [3] Officer Williams decided to arrest Smith on suspicion of criminal trespass and began to handcuff him. Officer Williams managed to get the handcuffs on one

of Smith's arms, but when he "grabbed" the other, Smith "pushed it, um, forcefully and quickly upwards into the air while I was still holding it." Tr. Vol. II p. 143. Although Officer Williams did manage to fully handcuff Smith and ordered him to leave the day room voluntarily, Smith did not, and Officer Williams had to push him.

[4] Once Officer Williams got Smith outside, he contacted his supervisor, Sergeant Roger Suesz, who arrived soon thereafter. Sergeant Suesz waited outside with Smith while Officer Williams went back inside to speak with the staff member at whom Smith had been yelling, and, when he came back outside, Smith appeared to be attempting to stand up. Officer Williams kicked Smith twice in the common peroneal, a clump of nerves on the outside of the thigh, to get him to sit back down.

[5] On November 28, 2019, the State charged Smith with Class A misdemeanor resisting law enforcement and Class A misdemeanor criminal trespass. On October 28, 2021, after a bench trial, the trial court found Smith guilty of resisting law enforcement and sentenced him to 180 days of incarceration, to be served consecutive to the sentence imposed in another cause number.

Discussion and Decision

[6] In reviewing a challenge to the sufficiency of the evidence, we do not reweigh the evidence or assess the credibility of witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). "It is the fact-finder's role, not that of appellate courts to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction." *Drane v. State*, 867 N.E.2d 144, 146 (Ind.

2007). We look only to evidence in a light most favorable to the trial court's ruling and must affirm the conviction unless no reasonable fact-finder could find the elements proven beyond a reasonable doubt. *McHenry*, 820 N.E.2d at 126. The evidence need not overcome every reasonable hypothesis of innocence. *Craig v. State*, 730 N.E.2d 1262, 1266 (Ind. 2000).

[7] Smith contends that the State failed to establish that he committed resisting law enforcement, specifically, that it failed to establish that he forcibly resisted. A person commits Class A misdemeanor resisting law enforcement when he knowingly or intentionally “forcibly resists, obstructs, or interferes with a law enforcement officer [...] while the officer is lawfully engaged in the execution of the officer’s duties[.]” Ind. Code § 35-44.1-3-1(a)(1). “[O]ne forcibly resists law enforcement when strong, powerful, violent means are used to evade a law enforcement official’s rightful exercise of his or her duties.” *Tyson v. State*, 140 N.E.3d 374, 377 (Ind. Ct. App. 2020) (quotation omitted), *trans. denied*. The force element may be satisfied with even a modest exertion of strength, power, or violence. *Id.* (citing *Graham v. State*, 903 N.E.2d 963, 965 (Ind. 2009) (stating that “‘stiffening’ of one’s arms when an officer grabs hold to position them for cuffing would suffice”)).

[8] We have little hesitation in concluding that the State produced sufficient evidence to establish that Smith forcibly resisted, obstructed, or interfered with Officer Williams while Officer Williams was lawfully engaged in the execution of his duties. First, the trial court heard evidence that while Officer Williams was attempting to arrest Smith, Smith pushed his right arm “forcefully and

quickly upwards into the air while [Officer Williams] was still holding it[.]” Tr. Vol. II p. 143. Officer Williams also testified that he had to push Smith against a wall at some point during the arrest. Additionally, Smith refused to exit the building when commanded to do so and had to be “pushed [...] through th[e] two exit doors” with “force.” Tr. Vol. II pp. 143, 144. Evidence of Smith’s multiple uses of force to resist Officer Williams’s attempts to handcuff him are more than sufficient to sustain his conviction for resisting law enforcement. *See, e.g., Johnson v. State*, 833 N.E.2d 516, 517 (Ind. Ct. App. 2005) (concluding that the evidence was sufficient to sustain conviction for resisting law enforcement where defendant “pushed away with his shoulders while cursing and yelling” when the officer attempted to search him and “stiffened up,” when officers attempted to get him into a police vehicle). Smith draws our attention to his testimony regarding the events of his arrest and his medical records to support his contention. This argument, however, is nothing more than an invitation to reweigh the evidence, which we will not do. *See, e.g., McHenry*, 820 N.E.2d at 126.

[9] We affirm the judgment of the trial court.

Najam, J., and Bailey, J., concur.