

## 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

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Kenyutta R. Andrews,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

December 5, 2022

Court of Appeals Case No.  
22A-CR-929

Appeal from the  
Marion Superior Court

The Honorable  
Clark H. Rogers, Judge

Trial Court Cause No.  
49D25-2110-F6-32735

**Foley, Judge.**

[1] Kenyutta R. Andrews (“Andrews”) appeals his three convictions for Level 6 felony battery against a public safety official.<sup>1</sup> Andrews claims that the State presented insufficient evidence to support his battery convictions. We affirm.

## **Facts and Procedural History**

[2] On October 24, 2021, Indiana Metropolitan Police Department (“IMPD”) officers had probable cause to arrest Andrews, and therefore, put him in handcuffs. After he was handcuffed, Andrews ran from officers and a brief chase ensued prior to the officers securing Andrews. Andrews complained he was having trouble breathing and requested medical attention. Three paramedics responded to the scene. The IMPD officers escorted Andrews into the ambulance. Andrews failed to comply with the paramedics attempts to safely secure Andrews in the ambulance. While in the ambulance and before transportation, Andrews bit one of the paramedics, kicked a second paramedic, and pulled and twisted a third paramedic’s finger. Eventually, the paramedics were able to secure Andrews so they could go to the hospital. Before they arrived at the hospital, Andrews had calmed down, was jovial, and joked with the paramedics.

[3] On October 27, 2021, the State charged Andrews with seven counts, including three separate counts of battery against a public safety official, as Level 6

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<sup>1</sup> Ind. Code § 35-42-2-1(c)(1), (e)(2).

felonies (Counts 1, 2, and 3).<sup>2</sup> On March 8, 2022, the trial court conducted a jury trial and the jury found Andrews guilty of the three separate counts of battery.<sup>3</sup> On April 4, 2022, Andrews was sentenced and hereafter appeals.

## Discussion and Decision

[4] Andrews contends that the State failed to present sufficient evidence to sustain his three convictions for battery against a public safety official. It is well settled that we neither reweigh evidence nor assess the credibility of the witnesses when reviewing the sufficiency of the evidence. *Walker v. State*, 998 N.E.2d 724, 726 (Ind. 2013). Instead, we look to the evidence and reasonable inferences drawn therefrom that support the verdict. *O’Connell v. State*, 742 N.E.2d 943, 949 (Ind. 2001). When confronted with conflicting evidence, this court must consider the evidence ““most favorably to the trial court’s ruling.”” *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007) (quoting *Wright v. State*, 828 N.E.2d 904, 906 (Ind. 2000)). “We will affirm the conviction unless no reasonable fact-finder could find the element of the crime proven beyond a reasonable doubt.” *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). It is therefore not necessary that the evidence ““overcome every reasonable hypothesis of innocence.”” *Drane*, 867 N.E.2d at 147 (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)). “[T]he evidence is sufficient if an inference

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<sup>2</sup> Andrews was also charged with Count 4, resisting law enforcement, as a Class A misdemeanor. I.C. § 35-44.1-3-1(a)(3).

<sup>3</sup> The jury also found Andrews guilty of Class A misdemeanor resisting law enforcement, but Andrews does not challenge that conviction.

may reasonably be drawn from it to support the verdict.” *Id.* (quoting *Pickens v. State*, 751 N.E.2d 331, 334 (Ind. Ct. App. 2001)).

[5] To convict Andrews of the three batteries, the State was obligated to prove that Andrews knowingly or intentionally touched each of the three public safety officials (“paramedics”), in a rude, insolent, or angry manner, while they were engaged in their official duty. *See* Ind. Code § 35-42-2-1(c)(1), (e)(2). Andrews argues that there was insufficient evidence to prove that he committed the three batteries voluntarily. Indiana Code section 35-41-2-1(a) provides that “a person commits an offense only if he voluntarily engages in conduct in violation of the statute defining the offense.” The term “voluntarily” means “behavior that is produced by an act of choice and is capable of being controlled by a human being who is in a conscious state of mind.” *McClain v. State*, 678 N.E.2d 104, 107 (Ind. 1997).

[6] Here, Andrews requested medical attention which the three paramedics were prepared to administer to him after they safely secured him in the ambulance, but Andrews was noncompliant. When one paramedic tried to follow Covid-19 protocols by placing a mask on Andrews, Andrews “started rocking his head violently back and forth” and bit the paramedic’s hand. Tr. Vol. II at 87. When another paramedic tried to get Andrews’s legs on the gurney, Andrews kicked that paramedic. When the third paramedic tried to buckle the clip on the gurney for Andrews’s safety, Andrews grabbed the paramedic’s finger, pulled, and twisted it.

[7] Andrews maintains that his actions were “an involuntary response to oxygen deprivation or pain.” Appellant’s Br. p. 11. However, the paramedics testified that Andrews did not show any visual signs of someone who was having trouble breathing, such as: (1) inability to speak full sentences; (2) change in the color of his lips; (3) change in his eyes; (4) wheezing; or (5) gasping. Tr. Vol. II p. 102. Also, one of the paramedics testified that “[i]f [Andrews] was having a difficult time breathing [he] wouldn’t [have been] able to yell and scream” like he was doing as they attempted to help to him. *Id.* at 107. In fact, when the paramedics tried to put Andrews’s legs up on the gurney to alleviate some of his breathing issues, Andrews continued to kick them. When the paramedics attempted to use a pulse oximetry<sup>4</sup> to accurately assess Andrews’s breathing and get vital signs, Andrews pulled it off and gripped his hands into a fist so that they were unable to do so. Although Andrews was “still kind of kicking and screaming and arguing with [the paramedics],” the paramedics were eventually able to secure him so they could go to the hospital. *Id.* at 97, 98. Before they arrived at the hospital, Andrews had calmed down, was jovial, and joked with the paramedics. More importantly, Andrews told the paramedics that “he gave [them] a workout for the day and that he hoped that [their] day was better after him.” *Id.* at 98. Based on the paramedics’ visual assessment of Andrews and Andrews’s statement, a fact-finder could reasonably infer that

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<sup>4</sup> A pulse oximetry is a device that is placed on an individual’s finger to help a paramedic read the individual’s oxygen levels and heart rate. Tr. Vol. II p. 86.

Andrews's actions were voluntary and met the statutory definition of Level 6 felony battery against a public safety official.

[8] Therefore, we conclude that the State presented sufficient evidence beyond a reasonable doubt to establish Andrews's three battery convictions.

[9] Affirmed.

Robb, J., and Mathias, J., concur.