

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Jerry T. Drook
Marion, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General

Kathy Bradley
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Demetrus T. Weems,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

July 18, 2023

Court of Appeals Case No.
22A-CR-2880

Appeal from the
Blackford Circuit Court

The Honorable
Brian Bade, Judge

Trial Court Cause No.
05C01-2005-F1-127

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

- [1] Demetrus T. Weems appeals his conviction for Level 4 felony dealing in methamphetamine in the presence of a child, arguing that the evidence is insufficient to support the conviction. We affirm.

Facts and Procedural History

- [2] On February 26, 2020, Weems and his wife, Amber Weems, drove Brent Minion and Jamie Llamas to Amber's apartment. Amber lived in a small apartment with her two daughters, ages six and thirteen (Weems is the father of the younger daughter). Weems and Brent left in the afternoon, and Weems returned with methamphetamine. Amber described the amount of methamphetamine as a "ball" or 3.5 grams. Tr. Vol. II p. 131. Amber watched Weems give a portion of the methamphetamine to Brent. The children were present in the apartment that afternoon and evening.
- [3] After hanging out and getting high, Brent and Jamie stayed at Amber's overnight. The next day, Amber bought heroin and gave some of it to Jamie, who gave it to Brent. Brent then prepared a "speedball," a mixture of heroin and methamphetamine. *Id.* at 56-57. Jamie left the room to shower. When she returned, the "speedball" was gone, and Brent was lying down and "acting weird." *Id.* at 58-60. After a while, Jamie and Amber became concerned about

Brent's condition. Eventually, Jamie called 911. Brent later died at the hospital from acute methamphetamine and fentanyl intoxication.

[4] The State charged Weems with Level 1 felony dealing in a controlled substance resulting in death; Level 4 felony dealing in methamphetamine in the presence of a child; Level 6 felony maintaining a common nuisance; Level 6 felony neglect of a dependent; and Class C misdemeanor possession of paraphernalia.¹ The State also alleged Weems is a habitual offender.

[5] A jury trial was held in September 2022. Jamie, Amber, and several other witnesses testified about the events described above. In addition, Amber testified that Weems dealt methamphetamine a second time. Specifically, she testified that Butch Runkle and Julie Thomas came to the apartment on February 27 and she saw Weems give them what she believed to be methamphetamine. The jury found Weems not guilty of Level 1 felony dealing in a controlled substance resulting in death but guilty on all other counts. Weems then admitted being a habitual offender. The trial court sentenced Weems to twenty-seven years in the Department of Correction, with twenty years to serve and seven years suspended to probation.

[6] Weems now appeals.

¹ The State also charged Weems with Level 6 felony unlawful possession of a syringe but later dismissed that count.

Discussion and Decision

[7] Weems contends the evidence is insufficient to support his conviction for Level 4 felony dealing in methamphetamine. His argument focuses entirely on the evidence that he dealt to Butch and Julie on February 27. He does not challenge the sufficiency of the evidence that he dealt to Brent on February 26. Instead, he argues that the evidence of the transaction with Brent could not have been the basis for the jury’s guilty verdict. Specifically, Weems contends that the jury’s not-guilty verdict on Level 1 felony dealing in a controlled substance resulting in death—a charge that was based on the allegation that he dealt methamphetamine to Brent—means that the jury found he did not deal to Brent. We disagree. As the State notes, “It is reasonable to conclude from the jury’s verdict that it could have believed Weems dealt methamphetamine to [Brent], but that it was not the cause of his death.” Appellee’s Br. p. 11 n.1. Because the February 26 transaction could have been the basis for the jury’s guilty verdict, and because Weems does not challenge the sufficiency of the evidence as to that transaction, we affirm his conviction for Level 4 felony dealing in methamphetamine.²

[8] Affirmed.

Mathias, J., and Pyle, J., concur.

² Weems does not raise a jury-unanimity issue.