MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Mark D. Altenhof
Elkhart, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General

Kathy Bradley
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Christian O. Maradiaga,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

June 20, 2023

Court of Appeals Case No.
22A-CR-2889

Appeal from the
Elkhart Circuit Court

The Honorable
Michael A. Christofeno, Judge

Trial Court Cause No.
20C01-2106-MR-3

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

[1] Christian O. Maradiaga was convicted of murder and neglect of a dependent resulting in death after beating his girlfriend's four-year-old son to death. He now appeals, arguing among other things that the evidence is insufficient to support his convictions. While we find the evidence sufficient to uphold his murder conviction, we agree that there is insufficient evidence to support his neglect conviction as a Level 1 felony. As such, we affirm in part, reverse in part, and remand for the imposition of Level 6 felony neglect of a dependent and resentencing.

Facts and Procedural History

[2] R.P.D., born in 2016, was the biological son of Karen Duran. In 2019, Duran and Maradiaga began dating. The next year, the couple had a child, N.L.M., and moved with both children into an apartment in Elkhart.

[3] On June 9, 2021, Duran, who worked the night shift, went to work around 6 p.m., leaving four-year-old R.P.D. and six-month-old N.L.M. with Maradiaga. Beginning at 11:32 p.m., Josue Sosa, Maradiaga's best friend, received several unanswered video calls from Maradiaga. Bothered by the noise, Sosa's wife Mallory woke him, and Sosa answered at 11:45 p.m. Maradiaga was "screaming" and saying he "f*cked up" and "needed help." Tr. Vol. III p. 140. Over video, Maradiaga showed Sosa and Mallory R.P.D., who was

unconscious on the floor, and stated he had "hit [R.P.D.] in the head" and "thrown him around." *Id.* at 141, 144. Sosa repeatedly told Maradiaga to call Duran or the police, but Maradiaga refused. Maradiaga also told Sosa he had used both methamphetamine and ecstasy that night.

[4] During this conversation, Mallory attempted to contact Duran at work. Duran received Mallory's message "around [midnight]" and immediately headed home. *Id.* at 11. Sosa and Mallory also headed toward the apartment. Ten minutes later, Duran arrived at the apartment and found R.P.D. in N.L.M.'s crib. He was "unresponsive" with his hands "balled" and "locked" into fists and appeared to be having a seizure. *Id.* at 11, 14. Duran tried to call 911, but Maradiaga took the phone from her. The two fought over the phone and Maradiaga grabbed at Duran's arms, leaving large scratch marks down each arm. During this time, Sosa arrived, and Maradiaga stopped fighting. Sosa, Mallory, and Duran took R.P.D. to Elkhart General Hospital.

[5] When R.P.D. arrived at the hospital, he was struggling to breathe on his own and doctors quickly intubated him. He had low-level reflexes and was showing signs of seizure activity. He also had "widespread" bruising on his fingers, hands, wrists, forearms, elbows, upper arms, ankles, legs, thighs, buttocks, back, neck, jaw, forehead, chin, ear, and head. *Id.* at 87. Imaging revealed he suffered subdural and subarachnoid hemorrhages. Doctors determined it was "highly likely" his brain bleeds caused the "seizure activity" and that the brain bleeds were caused by significant trauma. *Id.* at 103. On June 11, doctors

determined R.P.D. was "brain dead." *Id.* at 28. He was disconnected from life support and died that day.

[6] The State charged Maradiaga with murder, Level 1 felony neglect of a dependent resulting in death, and Class A misdemeanor interference with the reporting of a crime. A jury trial was held in September 2022. At trial, Dr. Phillip Schafer, who treated R.P.D. at Elkhart General Hospital, testified about R.P.D.'s injuries. During his testimony, the following exchange occurred:

> [State]: If you had been able to perform medical interventions, say within just a few minutes after whatever mechanism injured him, could there have been a different outcome?
>
> [Dr. Schafer]: Yes.
>
> [State]: What kinds of things could you have done to help this child immediately?
>
> [Dr. Schafer]: If they were breathing on their own, if they still had cognitive function, it's possible we could have prevented seizures from even happening. Depending on how well their neurologic status was at the time, we may not have had to intubate them at all. Getting them to a neurosurgeon could have been helpful if one side of the brain only had some bleeding on it and the other side did not. It's hard to say without knowing what their condition was immediately afterwards, but those are all possibilities.
>
> [State]: Are there surgical interventions that can be done even to drain that blood from the brain to keep it from causing accumulation and pressure on the brain?

[Dr. Schafer]: Yes.

[State]: And is either Elkhart General or South Bend Memorial able to do those interventions?

[Dr. Schafer]: Yes.

[State]: So, with immediate medical attention, if you would have had this information faster, were there interventions that could have been done?

[Dr. Schafer]: Yes.

Id. at 106-07. On cross-examination, Dr. Schafer was asked the following:

[Defense Counsel]: [The State] was asking you about the timing of treatment, and you had indicated that there's at least a possibility that an earlier treatment could have -- could have resulted in a different outcome; different procedures might have been available. Is it fair to say, though, that that's a pretty speculative thing, that you really don't know what his condition was earlier, and it's hard to say when the injuries actually happened? Is it -- is that all fair to say?

[Dr. Schafer]: Yes.

Id. at 111.

[7] Maradiaga testified that R.P.D. sustained his injuries by falling in the bathtub. He acknowledged he did not call for medical services and prevented Duran from doing so. The jury found him guilty as charged.

[8] The court sentenced him to sixty-five years for murder and thirty-five years for Level 1 felony neglect of a dependent, to be served consecutively. The court also sentenced him to one year for the Class A misdemeanor, to be served concurrently to the other charges, for an aggregate sentence of one hundred years.

[9] Maradiaga now appeals.

Discussion and Decision

[10] Maradiaga argues the evidence is insufficient to support his convictions for murder and Level 1 felony neglect of a dependent resulting in death.[1] When reviewing sufficiency-of-the-evidence claims, we neither reweigh the evidence nor judge the credibility of witnesses. *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015). We only consider the evidence supporting the verdict and any reasonable inferences that can be drawn from the evidence. *Id.* A conviction will be affirmed if there is substantial evidence of probative value to support each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

[1] Maradiaga does not challenge the sufficiency of evidence supporting his conviction for Class A misdemeanor interference with the reporting of a crime.

I. Murder

[11] To convict Maradiaga of murder, the State had to prove beyond a reasonable doubt that he knowingly or intentionally killed R.P.D. Ind. Code § 35-42-1-1; Appellant's App. Vol. II p. 15. A person knowingly kills when they are aware of a high probability that their actions may kill. I.C. § 35-41-2-2(b). Maradiaga argues the evidence is insufficient to show "he was aware of a high probability that any of his actions would result in the death of R.P.D." Appellant's Br. p. 10.

[12] "Knowledge and intent are both mental states and, absent an admission by the defendant, the jury must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant has the requisite knowledge or intent to commit the offense in question." *Stubbers v. State*, 190 N.E.3d 424, 432 (Ind. Ct. App. 2022), *trans. denied*. "In deciding whether a defendant was aware of the high probability that his actions would result in the death of a victim, the jury may consider the duration and brutality of a defendant's actions, and the relative strengths and sizes of a defendant and victim." *Williams v. State*, 749 N.E.2d 1139, 1141 (Ind. 2001). "In cases involving adults beating small children, the requisite intent to kill may be 'inferred from repeated severe blows to a child where anyone with reasonable judgment would know that blows of such magnitude could fatally injure the child.'" *Pritcher v. State*, 208 N.E.3d 656, 666-67 (Ind. Ct. App. 2023) (quoting *Anderson v. State*, 466 N.E.2d 27, 30 (Ind. 1984)).

[13] Here, Maradiaga, a grown man, admittedly hit four-year-old R.P.D. on the head and threw him around. When R.P.D. arrived at the hospital that same night, he was already showing severe bruising all over his body, had two brain bleeds, and was suffering from seizures. Given the nature and severity of these injuries, sufficient evidence was presented from which the jury could reasonably conclude Maradiaga was aware of a high probability that his actions might kill R.P.D.

B. Neglect of a Dependent

[14] To convict Maradiaga of Level 1 felony neglect, the State had to prove beyond a reasonable doubt that Maradiaga, being at least eighteen years old and having the care of R.P.D., a dependent less than fourteen, knowingly placed R.P.D. in a situation that endangered his life or health, and which resulted in death. I.C. § 35-46-1-4(b)(3); Appellant's App. Vol. II p. 15. The charging information alleged Maradiaga endangered R.P.D. by "failing to render or seek medical aid." Appellant's App. Vol. II p. 15.

[15] Maradiaga first asserts there is insufficient evidence to show he failed to render or seek medical aid, emphasizing that he called Sosa when he realized R.P.D. was in distress. We disagree. The record indicates that Maradiaga first called Sosa at 11:32 p.m. and continued calling until he made contact at 11:45 p.m. During the video call, Sosa and Mallory repeatedly urged Maradiaga to call 911, but he refused. Duran, who received Mallory's call about R.P.D. around midnight, immediately drove home from work. When she arrived at the apartment, which was about ten minutes away, Maradiaga still had not called

911 and tried to prevent her from doing so. This evidence shows that over at least a forty-minute period, Maradiaga failed to call emergency services despite R.P.D.'s obvious medical needs and repeated instructions to do so by Sosa and Mallory. Finally, Maradiaga himself testified that he did not call 911 when he could have. This is sufficient to show he failed to render or seek medical aid.

[16] Next, Maradiaga contends that the State failed to present sufficient evidence to support neglect of a dependent as a Level 1 felony. Here, to elevate neglect of a dependent to a Level 1 felony, the State had to prove beyond a reasonable doubt that Maradiaga's failure to render or seek medical aid for R.P.D. resulted in his death. I.C. § 35-46-1-4(b)(3); Appellant's App. Vol. II p. 15. Maradiaga contends that the State did not present sufficient evidence that his neglect resulted in R.P.D.'s death, and thus we should reduce his conviction to a Level 6 felony. We agree.

[17] This Court has determined that "the phrase 'results in the death of a dependent' for purposes of the neglect statute . . . implicates proximate causation." *Patel v. State*, 60 N.E.3d 1041, 1052 (Ind. Ct. App. 2016). Under this standard, the State must, at a minimum, prove beyond a reasonable doubt that the death would not have occurred "but for" the neglectful act. *Id.* In *Patel*, the defendant, attempting to self-abort, gave birth to a premature infant. Rather than take the infant to a hospital, she threw him in a dumpster, where he was later found dead. The defendant was charged and later found guilty of Level 1 felony neglect of a dependent resulting in death. However, at trial, because doctors were unsure of the infant's condition after the birth, they could not testify with

any certainty as to the effectiveness of medical intervention, instead opining that it was "absolutely possible" medical intervention would have saved the infant. *Id.* at 1053. On appeal, we noted such possibilities did not amount to proof beyond a reasonable doubt that the death would not have occurred but for the defendant's failure to obtain medical care. *Id.* at 1054. Therefore, we reduced Patel's conviction to Level 6 felony neglect of a dependent.

[18] The same can be said here. Dr. Schafer testified that if R.P.D. had received medical aid within a few minutes of experiencing the trauma, it was "possible" interventions could have been done and there "could . . . have been a different outcome." Tr. Vol. III p. 106. But because it was unknown what time R.P.D. sustained the injuries or what his condition was like in the immediate aftermath, Dr. Schafer acknowledged any chance that medical aid could have made a difference was only a "possibility" and "speculative." *Id.* at 111. This mirrors the testimony in *Patel*, in which the victim's condition was unknown and doctors could not say whether intervention would have prevented her death.

[19] As such, we conclude that the State failed to present sufficient evidence to show R.P.D.'s death was a result of Maradiaga's failure to render or seek medical care. Therefore, we vacate Maradiaga's conviction for Level 1 felony neglect of

a dependent and remand for the trial court to enter judgment of conviction for Level 6 felony neglect of a dependent and resentence Maradiaga accordingly.[2]

[20] Affirmed in part, reversed in part, and remanded.

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

[2] Maradiaga also alleges his convictions for murder and Level 1 felony neglect of a dependent violate double jeopardy. But because we have reduced his neglect conviction to no longer include the death enhancement, we need not address this issue. Nor will we address his inappropriate-sentence argument, as we are remanding for resentencing.