

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Larry Dee Williams,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

February 7, 2023

Court of Appeals Case No.
22A-CR-1490

Appeal from the Lake Superior
Court

The Honorable Gina L. Jones,
Judge

Trial Court Cause No.
45G03-1908-F5-366

Memorandum Decision by Judge Bradford
Judges Pyle and Kenworthy concur.

Bradford, Judge.

Case Summary

[1] Gary Police Officer Greg Wolf was watching for traffic violations when a vehicle sped past him, going sixteen miles per hour over the posted speed limit. Officer Wolf followed the vehicle and activated his lights, but a chase ensued when the driver did not stop. After the vehicle had become disabled, Officer Wolf and Officer Delaun Kirk saw a man exit the vehicle and flee. As the man fled, he dropped a handgun. Twenty to thirty minutes later, a K9 officer located Williams, whose clothes matched Officer Kirk's description. Williams also had an empty handgun holster, and his fingerprint was on the handgun's magazine. The State charged Williams with Level 4 felony unlawful possession of a firearm by a serious violent felon ("SVF") and Level 6 felony resisting law enforcement. A jury found Williams guilty as charged, and the trial court sentenced him to an aggregate ten-year sentence. Williams appeals, challenging the sufficiency of the evidence identifying him as the person seen fleeing from the vehicle. We affirm.

Facts and Procedural History

[2] On the night of August 17, 2019, Officer Wolf was watching for traffic violations when he used radar and detected a vehicle traveling sixteen miles an hour over the posted speed limit. Officer Wolf caught up to the vehicle and activated his lights and siren. The driver refused to stop and instead accelerated. Officer Wolf called for backup and continued to pursue the vehicle for seven to eight minutes.

[3] As the chase continued, the vehicle entered an alley with rough terrain with Officers Wolf and Kirk in pursuit. The alley's poor condition disabled the vehicle. At this point, a man exited the vehicle and fled. According to Officer Wolf, the man was "grabbing his side like he was trying to hold something and was wearing dark clothes and a cap"; however, Officer Kirk, who had been proceeding through the alley on foot, explained that the man was wearing "a white shirt and dark color[ed] pants" and "a silver chain or necklace." Tr. Vol. III pp. 128–29. As the man fled, he climbed over a fence and dropped a handgun.

[4] The officers requested a K9 officer to locate the man. Hobart Police Officer Cody Riggle brought his K9 to smell the vehicle's driver seat and the loaded handgun magazine on the seat. The K9 began to track the scent, briefly lost it, and then rediscovered it as it led Officer Riggle past a house where someone was grilling in the backyard. The person grilling informed Officer Riggle that "the suspect that [they] were looking for had ran through [there] about 20 minutes ago." Tr. Vol. III p. 208. Shortly thereafter, the K9 led Officer Riggle to a man, later identified as Williams, who began to climb a chain-link fence. Officer Riggle ordered Williams to stop but he continued, so Officer Riggle sent his K9 to catch Williams. When apprehended, Williams was wearing a white shirt, dark pants, a chain around his neck, and an empty handgun holster.

[5] Subsequently, Officer Kirk helped transport Williams to the Gary Police Department. When officers tried to move Williams, he went limp and refused to move, forcing the officers to place him in the police car. According to

Officer Wolf, “the stature, the height, weight [...] [and] the clothing description” all matched the person he saw fleeing the vehicle after the pursuit. Tr. Vol. III p. 73. Moreover, a fingerprint taken from the magazine of the handgun matched Williams.

- [6] On August 19, 2020, the State charged Williams with Level 5 felony carrying a handgun without a license and Level 6 felony resisting law enforcement. The State subsequently amended the first charge to SVF. In April of 2022, after trial, the jury found Williams guilty as charged. The trial court sentenced Williams to an aggregate ten-year sentence.

Discussion and Decision

- [7] Williams challenges his SVF conviction, arguing that the State “provided insufficient evidence to prove that [he] was the individual seen exiting the driver’s seat of the” vehicle. Appellant’s Br. p. 8. “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.” *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We will neither assess witness credibility nor “weigh the evidence to determine whether it is sufficient to support a conviction.” *Id.* When presented with conflicting evidence, we “must consider it most favorably to the trial court’s ruling.” *Id.* We will affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* “It is therefore not necessary that the evidence overcome every reasonable hypothesis of

innocence.” *Id.* “The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Id.* “A verdict may be sustained based on circumstantial evidence alone if the circumstantial evidence supports a reasonable inference of guilt.” *Maul v. State*, 731 N.E.2d 438, 439 (Ind. 2000).

[8] To convict Williams of SVF, the State needed to prove that Williams was a serious violent felon who knowingly or intentionally possessed a firearm. Ind. Code § 35-47-4-5(c). Williams argues that the State’s identification evidence is simply too vague to support a conclusion that he was the driver of the vehicle. Specifically, Williams points out that “[w]ith no officers able to identify the driver during the pursuit itself, the State’s identification evidence consists only of the testimony provided by Officers Wolf and Kirk regarding the events following the conclusion of the vehicle pursuit.” Appellant’s Br. p. 10. Williams argues that the State’s identification evidence is too unreliable because the only in-court identification of Williams was in reference to the person arrested, not to the driver of the vehicle. We, however, disagree.

[9] The State provided sufficient evidence to support Williams’s convictions. While Officer Wolf described the person who fled from the vehicle “as a black male wearing dark clothing and a cap[,]” Officer Kirk testified that the suspect had been wearing “a white shirt and dark color[ed] pants” and a “silver chain or necklace.” Tr. Vol. III pp. 128–29. Officer Kirk’s description matched Williams’s clothing when apprehended. Additionally, both officers saw the fleeing suspect drop a handgun, the magazine of which had a fingerprint matching one of Williams’s. A K9 officer also tracked Williams’s scent from

the vehicle to the location where Williams was apprehended, despite there being “people all over the place outside.” Tr. Vol. III p. 208. Even if Officer Wolf’s description of Williams’s clothing differed from Officer Kirk’s description, it is “the jury’s exclusive province to weigh conflicting evidence.” *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). Williams essentially asks us to reweigh the evidence, which we will not do. *Drane*, 867 N.E.2d at 146.

[10] Williams directs our attention to *Webb v. State*, 147 N.E.3d 378 (Ind. Ct. App. 2020), *trans. denied*, in support of his claim that the inconsistent identifications provided by Officers Kirk and Wolf were insufficient to sustain his convictions. In that case, Webb was convicted of attempted robbery resulting in serious bodily injury and attempted robbery resulting in bodily injury in connection with a shooting. *Id.* at 380–81. The two victims described their assailant differently: one described him as a black male with an afro and glasses while the other described him as a black male with dreadlocks but made no mention of glasses. *Id.* at 380. The State, however, also provided evidence that: (1) Webb had had access to the same model of vehicle driven by the suspects; (2) cartridges and casings had been found in this vehicle months after the shooting; (3) Webb was friends with the co-defendant who was positively identified and had robbed the victims previously; (4) Webb had received a text message from this co-defendant stating, “Appreciate you brother”; (5) Webb had received an anonymous text message stating, “Aye don’t tell nobody what happen last night”; and (6) Webb’s cellular telephone data had shown he was fifty meters from the location of the shooting. *Id.* at 385–86. The jury had found Webb

guilty; however, due to the discrepancies in the evidence about Webb's car and hair, the lack of physical evidence linking Webb to the offenses, and the fact that the victims never had identified Webb specifically as the shooter, this Court reversed his convictions. *Id.* at 380.

[11] Williams's reliance on *Webb*, however, is misplaced because the facts of that case are readily distinguishable from the facts before us. Unlike the evidence in this case, the evidence in *Webb* contained no accurate descriptions of the suspect or his clothing. While neither officer identified Williams as he exited the vehicle, Officer Kirk accurately described Williams's clothes, and even Officer Wolf indicated that Williams's stature, height, and weight matched the individual he saw exiting the vehicle.

[12] The other evidence further distinguishes this case from *Webb*. For example, both officers saw the suspect drop a handgun as he fled. The magazine in that handgun produced a fingerprint match for Williams and the K9 officer tracked Williams's scent from the abandoned vehicle to the location where Williams was found. Notably, when found by the K9 officer, Williams attempted to flee again which suggests consciousness of guilt. *Brown v. State*, 563 N.E.2d 103, 107 (Ind. 1990) ("Evidence of flight may be considered as circumstantial evidence of consciousness of guilt."). As a result, we cannot say that the evidence supporting Williams's convictions is insufficient. *See Drane*, 867 N.E.2d at 146; *Maul*, 731 N.E.2d at 439. Williams's argument amounts to an invitation to reweigh the evidence, which, again, we will not do. *Drane*, 867 N.E.2d at 146.

[13] The judgment of the trial court is affirmed.

Pyle, J., and Kenworthy, J., concur.