MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jonatan Adorno Morales,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

August 30, 2021

Court of Appeals Case No. 21A-CR-614

Appeal from the Bartholomew Superior Court

The Honorable David A. Nowak, Magistrate

Trial Court Cause No. 03D02-2002-CM-748

Vaidik, Judge.

Case Summary

[1] Jonatan Adorno Morales appeals his conviction for Class A misdemeanor resisting law enforcement, arguing there is insufficient evidence to support it. We affirm.

Facts and Procedural History

[2] On October 30, 2019, Officer Trenton Browning of the Columbus Police Department conducted a traffic stop of the car Morales was driving. After getting Morales's identification, Officer Browning discovered Morales had a suspended driver's license. Officer Browning also noticed Morales smelled of alcohol and was slurring his speech. Officer Browning arrested Morales for driving while suspended and asked Morales to submit to a field sobriety test. When Morales refused, Officer Browning transported him to a local hospital and obtained a warrant for a blood draw.

[3] When they arrived at the hospital, Officer Browning attempted to remove a handcuffed Morales from the backseat of his police car. Morales refused to exit the car and "locked" up his body to prevent being moved. Tr. Vol. II p. 6. Officer Browning and two other officers forcibly removed Morales from the car. Morales continued "resisting," so officers restrained him to a wheelchair and took him into the hospital. *Id.* Upon reaching the hospital room, Morales began

"kicking," and officers had to "physically hold his legs down and constrain him to the hospital bed" to conduct the blood draw. *Id.* at 7, 11.[1]

[4] The State charged Morales with Class A misdemeanor resisting law enforcement and Class A misdemeanor driving while suspended. At the bench trial, Morales testified he is diabetic and was suffering from high blood sugar during his arrest, causing him to be "out of it" and "not [him]self." *Id.* at 14, 15. The trial court found Morales guilty as charged and sentenced him to one year, suspended to probation, on each count, to be served concurrently.

[5] Morales now appeals his conviction for resisting law enforcement.

Discussion and Decision

[6] Morales contends the evidence is insufficient to support his conviction for resisting law enforcement. 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 will only consider the evidence supporting the judgment 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

[1] The results of the blood draw were not entered into evidence.

trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

[7] To convict Morales of Class A misdemeanor resisting law enforcement, the State had to prove he knowingly or intentionally forcibly resisted, obstructed, or interfered with a law-enforcement officer while the officer was lawfully engaged in the execution of the officer's duties. Ind. Code § 35-44.1-3-1(a)(1). Morales argues his actions did not constitute forcible resistance. Our Supreme Court, in discussing the forcible-resistance requirement of the statute, has explained that:

> [N]ot every passive—or even active—response to a police officer constitutes the offense of resisting law enforcement, even when that response compels the officer to use force. Instead, a person "forcibly" resists, obstructs, or interferes with a police officer when he or she uses strong, powerful, violent means to impede an officer in the lawful execution of his or her duties. But this should not be understood as requiring an overwhelming or extreme level of force. The element may be satisfied with even a modest exertion of strength, power, or violence.

Walker v. State, 998 N.E.2d 724, 727 (Ind. 2013).

[8] Morales argues he merely "lock[ed] up" his body in the "face of attempts to get him out of the car" and that this is not "the kind of 'forcible' resistance necessary to sustain a conviction under the statute." Appellant's Br. p. 11. Morales compares his actions to that of the defendant in *Spangler v. State*, who was convicted of resisting law enforcement for refusing to accept service of process from a law-enforcement official and walking away. 607 N.E.2d 720 (Ind. 1993). Our Supreme Court reversed his conviction and noted there was no

evidence that the defendant directed any "strength, power, or violence" toward the law-enforcement official or that the defendant made any "movement or threatening gesture" toward the official. *Id.* at 724.

[9] But we find Morales's actions more akin to the defendant in *Johnson v. State*, 833 N.E.2d 516 (Ind. Ct. App. 2005). There, the defendant was convicted of resisting law enforcement for "turning" and "pushing away" from officers and because "after refusing to get into the transport vehicle, he 'stiffened up,' requiring that the officers exert force to place him inside the transport vehicle." *Id.* at 518-19. We held these actions, in particular the stiffening up, were more than the "passive resistance" described in *Spangler*. *Id.* at 518.

[10] The same can be said here. Morales "locked up" his body to the point where multiple officers had to physically force him out of the police car. This is sufficient "forcible resistance" under the statute. *See Graham v. State*, 903 N.E.2d 963, 966 (Ind. 2009) (noting "even 'stiffening' of one's arms when an officer grabs hold to position them for cuffing would suffice" to show that a defendant forcibly resisted law enforcement). And in any event, once out of the car Morales continued to resist by "kicking," requiring law enforcement to constrain his legs. *See A.A. v. State*, 29 N.E.3d 1277, 1281 (Ind. Ct. App. 2015) (defendant's act of attempting to kick officer could "be construed as a threatening gesture" sufficient to constitute an act of forcible resistance). Again, this is sufficient to constitute forcibly resisting law enforcement.

[11] Morales also argues that even if he forcibly resisted law enforcement, his actions "resulted from high blood sugar, not intoxication or a deliberate attempt to defy law enforcement." Appellant's Br. p. 11. This argument appears to challenge whether he "knowingly or intentionally" resisted law enforcement as required by the statute. But Morales made this claim to the trial court, supporting it only with his own self-serving testimony, which the trial court clearly did not believe. *See* Tr. Vol. II pp. 15-17 (Morales testifying as to his diabetes and his behavior the night of his arrest); 20 (defense counsel arguing Morales "was under a diabetic issue with his blood sugar level from the moment he got stopped, through the whole thing, he's in a medical emergency and he was not knowingly or intentionally forcibly resisting"). This is a request for us to reweigh evidence and judge the credibility of a witness, which we do not do. *See Willis,* 27 N.E.3d at 1066.

[12] Because the evidence is sufficient to support Morales's conviction, we affirm.

[13] Affirmed.

Kirsch, J., and May, J., concur.