MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

Malachi Isaac Littlepage,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

April 17, 2025

Court of Appeals Case No.
24A-CR-2595

Appeal from the Vanderburgh Circuit Court

The Honorable Celia M. Pauli, Magistrate

Trial Court Cause No.
82C01-2312-F6-7796

Memorandum Decision by Judge Bradford
Judges Pyle and Kenworthy concur.

Bradford, Judge.

Case Summary

[1] After a jury trial, Malachi Littlepage was convicted of Level 6 felony failure to return to lawful detention. On appeal, Littlepage contends that the trial court abused its discretion in admitting certain evidence regarding his failure to return to the work-release facility. We affirm.

Facts and Procedural History

[2] On December 11, 2023, Littlepage participated in an intake interview at Vanderburgh County Community Corrections Work Release facility. A booking clerk provided Littlepage with the terms of the Work Release Program Contract, among which were that "the failure to return to [the] Work Release Facility as scheduled or being in an unauthorized location may subject [him] to criminal prosecution." Tr. Vol. II p. 40.

[3] Around 8:00 p.m., Littlepage met with his case manager, Jennifer Wilkey, and Littlepage was scheduled to leave the facility on a "hygiene pass" the next day from 12:30 p.m. to 5:30 p.m. Tr. Vol. II p. 55. The hygiene pass allowed Littlepage to leave the facility to purchase clothing and hygiene items that he would need for his stay in the facility. Wilkey informed Littlepage that when he returned to the facility, he was to go to the reception to check in.

[4] The day after Littlepage was scheduled to return, Wilkey "could see in the system that [Littlepage] was still like marked, like he hadn't been brought back

inside the facility." Tr. Vol. II p. 72. Wilkey confirmed that Littlepage was not in the facility. The State charged Littlepage with Level 6 felony failure to return to lawful detention.

[5] A jury trial commenced on August 30, 2024. During trial, the State admitted Exhibit 2, which contained a printout of notes from Community Corrections, including a note from Wilkey, which provided the following:

> On 12/12/2023, … Littlepage departed the Vanderburgh County Therapeutic Work Release Facility at approximately 12:30pm for the purposes of a hygiene pass; he was expected to return to the Facility at 5:30pm.… Littlepage failed to return or contact the Facility. As of 9:30am on 12/13/2023, … Littlepage is unaccounted for and his whereabouts are unknown.

Ex. Vol. III p. 15. Littlepage initially objected to the admission of State's Exhibit 2 because it contained statements from officers other than Wilkey, but after redactions were made, Littlepage stated that he had "no objection" to the document's admission. Tr. Vol. II p. 61. Wilkey testified that Littlepage had not returned to the facility on December 12th at 5:30 p.m. Littlepage objected to this testimony for a lack of foundation, which objection was overruled. Wilkey later testified that she had not been working at the facility on December 12th, the day that Littlepage had been scheduled to leave and return from his hygiene pass. Littlepage objected again to Wilkey's testimony that Littlepage had not returned, modifying his prior objection and arguing that Wilkey did not have personal knowledge that Littlepage had not returned and that Wilkey's

knowledge was based on hearsay. The trial court responded that it would "take that request under advisement[.]" Tr. Vol. II p. 69.

[6] Wilkey testified that, on December 13, 2023, she had returned to work and learned that Littlepage had not returned, which she confirmed by checking the facility. The jury found Littlepage guilty of Level 6 felony failure to return to lawful detention.

Discussion and Decision

[7] Littlepage contends that the trial court abused its discretion in admitting Wilkey's testimony regarding Littlepage's failure to return to the facility.[1] Specifically, Littlepage contends that his conviction is "based upon the testimony of one Community Corrections Officer who had no personal knowledge regarding Littlepage's failure to return to community corrections." Appellant's Br. p. 6.

[8] Generally, a trial court's ruling on the admission of evidence is accorded a great deal of deference on appeal. Because the trial court is best able to weigh the evidence and assess witness credibility, we review its rulings on admissibility for abuse of discretion and only reverse if a ruling is clearly against the logic and effect of the facts and circumstances and the error affects a party's substantial rights.

[1] *See* Ind. Code § 35-44.1-3-4(d) (providing that "[a] person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Level 6 felony").

Hall v. State, 36 N.E.3d 459, 466 (Ind. 2015) (citations and quotation marks omitted). "We consider the evidence most favorable to the court's decision and any uncontradicted evidence to the contrary." *Dunn v. State*, 919 N.E.2d 609, 612 (Ind. Ct. App. 2010) (citation omitted), *trans. denied*. A witness "may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." Ind. Evidence Rule 602.

[9] At trial, the following exchange occurred:

> Q: As part of your job as a case manager are you, is there any way you would be notified if Mr. Littlepage did not live up to the rules, regulations, etcetera, that were in the contract with the Work Release Program, would that be called to your attention ever?
> A: Yes, ma'am.
> Q: Okay. Do you know if Mr. Littlepage returned that date on December 12th?
> A: He did not.
> [Defense Counsel]: Your Honor, I would object, lack of foundation.
> THE COURT: Overruled.

Tr. Vol. II p. 63. Wilkey later testified that she "wouldn't have been there to physically observe at 5:30 whether or not Mr. Littlepage was walking through those doors" on December 12th. Tr. Vol. II pp. 62–63. Littlepage contends that because Wilkey had not been at the facility on December 12th, Wilkey had lacked personal knowledge of Littlepage's failure to return, and therefore, her testimony regarding Littlepage's failure to return to the facility should have been excluded. Littlepage further contends that because Wilkey had not been at

the facility on December 12th, her testimony "implicitly called for hearsay" because "she had to testify based on what she was told." Appellant's Br. p. 9. Because the record shows otherwise, we disagree with both arguments.

[10] While Wilkey was not at the facility on December 12th, she was on December 13th. Upon her return, Wilkey testified that she "could see in the system that [Littlepage] was still like marked, like he hadn't been brought back inside the facility." Tr. Vol. II p. 72. Littlepage does not dispute that there was some notation that Wilkey had observed indicating that Littlepage had not returned to the facility. After seeing the notation, Wilkey personally verified that Littlepage was not in the facility. Viewing the evidence most favorable to the trial court's decision, we cannot say that the trial court erred when it admitted Wilkey's testimony that Littlepage had not returned to the facility.[2][3] *See Dunn*, 919 N.E.2d at 612.

[11] We affirm the judgment of the trial court.

---

[2] In any event, any error in the admission of Wilkey's testimony would be harmless, given the substantial independent evidence that Littlepage had not returned to the facility, including Wilkey's testimony that when she had returned to work, Littlepage was still checked out of the facility, and he was not there. Likewise, to the extent that Littlepage contends that Wilkey's testimony contained hearsay, any error in the admission of such statements was harmless. *See Meadows v. State*, 785 N.E.2d 1112, 1122 (Ind. Ct. App. 2003) (providing that "[t]he improper admission of evidence is harmless error when the reviewing court is satisfied that the conviction is supported by substantial independent evidence of guilt so that there is no substantial likelihood that the challenged evidence contributed to the conviction").

[3] We also disagree with Littlepage's contention that Wilkey's note in Exhibit 2 was improperly admitted for the same reason. Wilkey's note regarding Littlepage's failure to return to the facility appears to be based on her personal knowledge that Littlepage had not returned by December 13th. We further observe that Littlepage had "no objection" to Exhibit 2 after redactions were made, first when the exhibit was introduced with redactions and again before jury instructions were read. Tr. Vol. II pp. 61, 86.

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

ATTORNEY FOR APPELLANT

Yvette M. LaPlante
LaPlante Legal LLC
Evansville, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General

Alexandria Sons
Deputy Attorney General
Indianapolis, Indiana