

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Latroy Ware,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff,

June 14, 2021

Court of Appeals Case No.
20A-CR-2331

Appeal from the St. Joseph
Superior Court

The Honorable Jeffrey L. Sanford,
Judge

Trial Court Cause No.
71D03-1807-F6-707

Robb, Judge.

Case Summary and Issues

- [1] Following a jury trial, Latroy Ware was found guilty of invasion of privacy and domestic battery, both Class A misdemeanors.¹ The trial court sentenced him to twenty-four months in the Indiana Department of Correction (“DOC”). Ware now appeals, raising two issues for our review: (1) whether there was sufficient evidence to support his invasion of privacy conviction; and (2) whether there was sufficient evidence to support his domestic battery conviction. Concluding that the State presented sufficient evidence to support Ware’s convictions, we affirm.

Facts and Procedural History

- [2] On July 19, 2018, Brittney Owens was hosting a birthday party for two of her sons at her home. Ware is the father of three of Owens’ children and was invited to the party. After Ware arrived at Owens’ home, she needed to leave to run an errand. Owens was gone for ten to fifteen minutes and when she returned, Ware and Shakira Isaac were in front of Owens’ house, near a U-Haul van, arguing with one another. Isaac is the mother of one of Ware’s children but was not invited to Owens’ home. Shortly after Owens returned,

¹ Ware was also charged with invasion of privacy as Level 6 felony due to a prior conviction. Ware pleaded guilty to invasion of privacy as a Level 6 felony upon the determination by the jury that he was guilty of the Class A misdemeanor invasion of privacy. *See* Transcript of Evidence, Volume 2 at 120, 125.

Officers Gage Conway and Dominic Hall of the South Bend Police Department arrived responding to a reported disturbance.

[3] Owens testified that from the time she returned, she never saw Ware touch Isaac. *See* Transcript of Evidence, Volume 2 at 64. However, as the officers approached the U-Haul, they saw Ware trying to pull Isaac out of the driver's seat by the leg. Officer Hall also observed Ware make a striking motion into the vehicle at Isaac. *See id.* at 67, 74. Officer Hall could see that Ware's striking motion "didn't hit the dashboard" but could not be 100 percent sure where or if Ware struck Isaac. *Id.* at 79. Other bystanders were also near the U-Haul attempting to separate Ware and Isaac.

[4] Officer Conway then detained Ware, ran a background check, and discovered that at the time of the incident Isaac had an ex parte protective order against Ware.² The protective order stipulates, in part, that:

1. [Ware] is hereby enjoined from threatening to commit or committing acts of domestic or family violence, stalking or a sex offense against [Isaac.]
2. [Ware] is prohibited from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with [Isaac.]

² Ware does not claim that he did not have notice of the ex parte protective order.

3. [Ware] shall be removed and excluded from [Isaac's] residence.
4. [Ware] is ordered to stay away from the residence, school and place of employment of [Isaac.]

Trial Exhibits, Volume 3 at 4.

[5] On July 25, 2018, the State charged Ware with invasion of privacy, a Class A misdemeanor; domestic battery, a Level 6 felony; and invasion of privacy, a Level 6 felony. Following a jury trial, Ware was found guilty of invasion of privacy, a Class A misdemeanor, and domestic battery, a lesser included offense as a Class A misdemeanor. Ware pleaded guilty to the enhancement of his invasion of privacy charge from a Class A misdemeanor to a Level 6 felony. The trial court sentenced Ware to twenty-four months to be served in the DOC. Ware now appeals.

Discussion and Decision

I. Standard of Review

[6] Our standard of reviewing claims of sufficiency of the evidence is well settled. We consider only the probative evidence and reasonable inferences supporting the verdict. *Boggs v. State*, 928 N.E.2d 855, 864 (Ind. Ct. App. 2010), *trans. denied*. We neither reweigh evidence nor judge witness credibility. *Id.* We consider conflicting evidence most favorably to the verdict, and we will affirm the conviction unless no reasonable trier of fact could find the elements of the

crime proven beyond a reasonable doubt. *Id.* The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict, and a conviction may be based on circumstantial evidence alone. *Id.*

II. Sufficiency of Evidence

A. Domestic Battery

- [7] Ware argues that insufficient evidence exists to support his conviction for domestic battery. To convict Ware of domestic battery, the State was required to prove beyond a reasonable doubt that Ware knowingly or intentionally “touche[d] a family or household member in a rude, insolent, or angry manner[.]” Ind. Code §§ 35-41-4-1(a); 35-42-2-1.3(a)(1).
- [8] Ware argues that although Officers Hall and Conway testified that they observed Ware pulling on Isaac’s leg, “Conway’s body cam footage does not corroborate this event” and “Owens never saw Ware touch Isaac.” Appellant’s Brief at 9. But there is evidence in the record that Ware touched Isaac. Ware asks us to reweigh the evidence, which we will not do. *Boggs*, 928 N.E.2d at 864.
- [9] Further, Ware argues that pulling Isaac by the leg to get her out of the U-Haul “alone cannot establish the element of a rude insolent or angry manner to sustain the charge” of domestic battery. Appellant’s Br. at 6. Ware attempts to downplay the hostility surrounding the incident by arguing that the “only reasonable inference was that Ware was trying to remove an unwanted uninvited person from his vehicle.” *Id.* at 9. However, when the officers arrived,

Ware and Isaac were screaming at each other. Tr., Vol. 2 at 68. Further, in addition to Ware pulling Isaac's leg, Officer Hall witnessed Ware attempt to strike Isaac although he could not say for sure if Ware made contact. *Id.* at 79. The record also shows that multiple bystanders were required to separate Ware and Isaac and that the two continued to yell at each other after being separated. *Id.* at 23, 29.

- [10] There is evidence in the record from which a jury could determine that when Ware grabbed Isaac's leg, he did so in a "rude, insolent, or angry manner[.]" Ind. Code § 35-42-2-1.3(a)(1). Accordingly, the State's evidence was sufficient to convict Ware of domestic battery.

B. Invasion of Privacy

- [11] Ware also argues there was insufficient evidence to support his conviction for invasion of privacy. To convict Ware of invasion of privacy, the State was required to prove beyond a reasonable doubt that Ware knowingly or intentionally violated "an ex parte protective order issued under [Indiana Code chapter] 34-26-5[.]" Ind. Code § 35-46-1-15.1(a)(2).³
- [12] Ware argues that he was in a public street, attending a party as an invited guest, and the contact was initiated by Isaac who had not been invited. *See* Appellant's Br. at 6. Further, Ware contends that the ex parte protective order does not

³ The offense is a Level 6 felony if the person has a prior unrelated conviction for an offense under this subsection. Ind. Code § 35-46-1-15.1(a).

prohibit him from being at the location where the incident took place.⁴

However, Isaac showing up at Owens' home uninvited does not relieve Ware of having to follow the ex parte protective order. *See Patterson v. State*, 979 N.E.2d 1066, 1069 (Ind. Ct. App. 2012) (stating that protective orders “are about the behavior of the respondent and nothing else”) (citation omitted); *Dixon v. State*, 869 N.E.2d 516, 520 (Ind. Ct. App. 2007) (stating that even consent of a petitioner for a protective order “does [not] preclude the violation of a court order”).

[13] Pursuant to the ex parte order for protection, Ware is “enjoined from threatening to commit or committing acts of domestic or family violence” or “*contacting*” Isaac. Exhibits, Vol. 3 at 4 (emphasis added). Our supreme court has stated that contact requires more than mere presence. *Hunter v. State*, 883 N.E.2d 1161, 1164 (Ind. 2008). Thus, Isaac showing up uninvited to Owens' home may not have caused Ware to be in violation of the ex parte order. However, when the officers arrived, Ware was yelling at Isaac. Tr., Vol. 2 at 68. Ware attempted to strike Isaac. *Id.* at 79. And Ware grabbed and pulled Isaac's leg to drag her out of the U-Haul. *Id.* at 15.

⁴ In addition to Isaac's residence, school, and place of employment, the ex parte order of protection listed multiple places frequented by Isaac that Ware was ordered to stay away from. *See Exhibits*, Vol. 3 at 4.

[14] Ware's conduct constituted contact prohibited by the ex parte protective order. Accordingly, the State presented sufficient evidence for the jury to conclude Ware knowingly and intentionally violated the ex parte protective order.

Conclusion

[15] We conclude there was sufficient evidence presented to support Ware's convictions. Accordingly, we affirm.

[16] Affirmed.

Bailey, J., and May, J., concur.