



IN THE  
**Court of Appeals of Indiana**

Lora N. Baxter-Balmer,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*

---

September 9, 2026

Court of Appeals Case No.  
26A-CR-1035

Appeal from the St. Joseph Superior Court  
The Honorable Christopher C. Fronk, Judge

Trial Court Cause No.  
71D01-2506-F6-558

---

**Opinion by Judge Bailey**  
Judges Brown and Weissmann concur.

**Bailey, Judge.**

## Case Summary

- [1] Following a bench trial, the court found Lora N. Baxter-Balmer guilty but mentally ill of three counts of Level 6 felony battery against a public safety official, two counts of Level 6 felony intimidation, Class B misdemeanor battery, and Class B misdemeanor disorderly conduct. On appeal, Baxter-Balmer argues that the trial court should have found her not responsible by reason of insanity. We agree and therefore reverse and remand with instructions to find Baxter-Balmer not responsible by reason of insanity.

## Facts and Procedural History

- [2] At trial, the parties presented no testimony and stipulated to the admission of three exhibits: a hospital police department incident report and the reports of psychologists Dr. Warren Sibilla, Jr., and Dr. Linda Monroe, both of whom the court had appointed to examine Baxter-Balmer and evaluate her sanity at the time of the offenses. Accordingly, our factual recitation is based on those exhibits.
- [3] Baxter-Balmer was born in 1960. She told Dr. Monroe that she had “been basically homeless for 27 years” and had accumulated over seventy criminal convictions. Ex. Vol. at 22.<sup>1</sup> She was diagnosed with schizophrenia as a

---

<sup>1</sup> At sentencing, the prosecutor stated that Baxter-Balmer “has seventy (70) prior convictions, fifty-eight (58) misdemeanors and twelve (12) felonies.” Tr. at 29.

teenager and has been on Social Security disability “since that time[.]” *Id.* According to Baxter-Balmer, she has since been diagnosed with “either Bipolar Disorder with Psychotic Features or Schizoaffective Disorder, Bipolar Type,” as well as with “Post-Traumatic Stress Disorder (PTSD), Kleptomania, and Multiple Personality Disorder (now called Dissociative Identity Disorder).” *Id.* at 21, 22. She was “sent to a longer term treatment facility” at age seventeen and “reported having two other long-term hospitalization[s,] one in Tennessee and one in Florida.” *Id.* at 22. “[S]he has usually been compliant with medication, but has had gaps due to not having prescriptions always available due to her living on the streets most of the time.” *Id.* “[S]he has always had a problem dealing with frustration, and has often been unable to control aggressive urges, especially when she is not on medication.” *Id.*

[4] As of June 12, 2025, Baxter-Balmer “had been off psychotropic medication for 12 days[.]” *Id.* She had recently applied for Social Security retirement benefits and “had received a back pay check for \$11,600.” *Id.* at 21. She had also recently been accepted into a housing program and had deposited the check in their safe, but she had “problems in not being able to get the check back in a timely manner from the director[.]” *Id.*

[5] In the early morning of June 12, Baxter-Balmer “went to buy alcohol because she was upset, and was sitting drinking when a police car came by. [S]he gave the police officer the finger because she was still very angry from the check situation.” *Id.* “This somehow led to an ambulance being called and her being taken to the emergency room” at Memorial Hospital in South Bend. *Id.* “She

did not think she belonged there and became even more angry when hospital staff took the bag of alcohol away and would not give it back to her.” *Id.* Five “shooter” bottles of alcohol, one of which was almost empty, were found in the bag, as well as two glass pipes. *Id.* at 9. According to Memorial Hospital Police Department Captain Benjamin Stayton, Baxter-Balmer “smelled of alcohol, was slurring her words, had bloodshot red eyes, and was having issues standing on her own.” *Id.* She was loud and verbally abusive to hospital staff and kicked, hit, or slapped several of them. She was placed in restraints and did not stop yelling until after she received two doses of a sedative.

[6] The State charged Baxter-Balmer with three counts of Level 6 felony battery against a public safety official, two counts of Level 6 felony intimidation, Class B misdemeanor battery, and Class B misdemeanor disorderly conduct. The trial court granted Baxter-Balmer’s request for a sanity evaluation and appointed Drs. Sibilla and Monroe to examine her and file reports “containing their expert opinion[s] of the Defendant’s sanity at the time of the crime.” Appellant’s App. Vol. 2 at 36.

[7] Dr. Sibilla interviewed Baxter-Balmer on October 31 and filed his report on November 25. Dr. Sibilla’s report concluded as follows:

1. Ms. Baxter-Balmer gave no evidence of malingering and/or fabrication of psychiatric symptomatology.
2. Given her mental status in combination with her psychosocial history, there is no evidence of organicity as a functional explanation of her psychiatric condition and/or its behavioral

consequences.

3. Due to Ms. Baxter-Balmer consuming alcohol, it is not possible to parcel out any possible loss of volitional behavioral control between any psychiatric symptom(s) she may have been experiencing versus her impaired mental status.

4. Thus, it is not possible to offer a professional opinion regarding whether or not Ms. Baxter-Balmer was able to appreciate the wrongfulness of her conduct associated with these criminal charges due to her alcohol consumption during this time.

Ex. Vol. at 19.

[8] Dr. Monroe interviewed Baxter-Balmer on November 24 and filed her report on November 26. Dr. Monroe's report concluded as follows:

Lora Baxter-Balmer is someone who has a long history of mental health problems. She was originally diagnosed with schizophrenia as a 16 or 17 year old, but it soon became clear that it was really more a case of Bipolar Disorder, or Schizoaffective Disorder, Bipolar Type. She stated she had been on disability since that time, but had just transitioned to being able to draw Social Security retirement benefits. She has not worked a lot, but it seems her benefits may have been based on parental income figures, since she was considered disabled before the age of 22.

It is clear that Ms. Baxter-Balmer has always had a problem with controlling her emotions, and that she has particular difficulty managing her anger and frustration, especially when she feels she is being victimized. The sequence of events which unfolded in this case began with her feeling her money from Social Security was either being taken away or withheld from her. This she was attempting to deal with with alcohol, and her angry behavior

toward police driving by resulted in her being taken to the emergency room, where she again felt victimized. She did not feel she needed treatment, wanted to get away, and was very upset about her alcohol being taken away. She had been off psychotropic medication for 12 days at the time by her report, and she admits that she has “no fuse” when she is not on medication.

Based on the results of this evaluation, I would have to conclude that Ms. Baxter-Balmer would meet the criteria for insanity at the time of the crime. Her mental health condition and the sequence of frustrations leading up to her actions appears to have created a situation in which she was unable to perceive the wrongfulness of her actions.

*Id.* at 22-23.

[9] A bench trial was held on February 5, 2026. As noted, the parties presented no testimony and stipulated to the admission of the three exhibits. The trial court took the matter under advisement. On February 9, the court found Baxter-Balmer guilty but mentally ill on all counts. The court’s verdict reads in pertinent part as follows:

Upon the state’s uncontroverted evidence, and in consideration of the evaluations and the prior observations of the Court regarding the Defendant’s mental health condition and status at the time of the crimes as being unmedicated, the Court finds and enters as follows:

The Defendant has a history of mental illness, as is evinced by Exhibits 2 and 3, as well as the Court’s own observations during Court business.

The Court credits Dr. Sibilla, author of Exhibit [2], in Summary of Findings paragraph 4, when he determined that it is not possible to determine the Defendant's mental state [a]t the time[] of the crime due to her alcohol consumption.

State's Exhibit 1 contains the statements of the victims and investigators, as well as some statements attributed to the Defendant.

Appellant's App. Vol. 2 at 96. The court imposed an aggregate sentence of thirty months executed. This appeal ensued.

## Discussion and Decision

[10] Baxter-Balmer does not deny that she committed the acts alleged in the charging information. Rather, she contends that the trial court erred in finding her guilty but mentally ill instead of not responsible by reason of insanity. "To convict a criminal defendant, the State must prove each element of the offense beyond a reasonable doubt." *Barcroft v. State*, 111 N.E.3d 997, 1002 (Ind. 2018) (citing Ind. Code § 35-41-4-1(a)). "But a defendant may avoid criminal responsibility by invoking the insanity defense." *Id.* "This plea requires the defendant to prove by a preponderance of the evidence (1) that she suffers from a 'mental disease or defect' and (2) that the 'mental disease or defect' rendered her unable to appreciate the wrongfulness of her conduct at the time of the

offense.” *Id.* (quoting I.C. §§ 35-41-4-1(b), 35-41-3-6(a)).<sup>2</sup> “Proof of mental illness alone is not enough.” *Id.* “A successful insanity defense results in the defendant being found not responsible by reason of insanity[.]” *Galloway v. State*, 938 N.E.2d 699, 708 (Ind. 2010). “[A] defendant who is mentally ill but fails to establish that he or she was unable to appreciate the wrongfulness of his or her conduct may be found guilty but mentally ill[.]” *Id.*

[11] “Whether a defendant appreciated the wrongfulness of his or her conduct at the time of the offense is a question for the trier of fact.” *Id.* at 709. “A factfinder’s determination that ‘a defendant was not insane at the time of the offense warrants substantial deference from’ an appellate court.” *Barcroft*, 111 N.E.3d at 1002 (quoting *Galloway*, 938 N.E.2d at 709). “A defendant claiming the insanity defense should have prevailed at trial faces a heavy burden because he or she ‘is in the position of one appealing from a negative judgment.’” *Galloway*, 938 N.E.2d at 709 (quoting *Thompson v. State*, 804 N.E.2d 1146, 1149 (Ind. 2004)). “A court on review will not reweigh evidence, reassess witness credibility, or disturb reasonable inferences made by the trier of fact (even though ‘more reasonable’ inferences could have been made).” *Id.* (quoting *Thompson*, 804 N.E.2d at 1149-50).

---

<sup>2</sup> As used in Indiana Code Section 35-41-3-6, “‘mental disease or defect’ means a severely abnormal mental condition that grossly and demonstrably impairs a person’s perception, but the term does not include an abnormality manifested only by repeated unlawful or antisocial conduct.” I.C. § 35-41-3-6(b).

[12] “Although this standard of review is deferential, it is not impossible, nor can it be. The Indiana Constitution guarantees ‘in all cases an absolute right to one appeal.’” *Id.* (quoting Ind. Const. art. VII, § 6). “An impossible standard of review under which appellate courts merely ‘rubber stamp’ the fact finder’s determinations, no matter how unreasonable, would raise serious constitutional concerns because it would make the right to an appeal illusory.” *Id.* As such, our Supreme Court “has long held that where the defendant claims the insanity defense should have prevailed, the conviction will be set aside ‘when the evidence is *without conflict* and leads only to the conclusion that the defendant was insane when the crime was committed.’” *Id.* at 710 (emphasis in *Galloway*) (quoting *Thompson*, 804 N.E.2d at 1149).

[13] Indiana Code Section 35-36-2-2 provides for the use of experts to assist the trier of fact in determining the defendant’s insanity. *Galloway*, 938 N.E.2d at 709.<sup>3</sup> Our Supreme Court has stated that “[w]here there is no conflict among the expert opinions that the defendant was insane at the time of the offense, there must be other evidence of probative value from which a conflicting inference of

---

<sup>3</sup> “The trial court is required to appoint two or three disinterested experts to examine the defendant and testify at trial as the court’s witnesses, after the State and the defendant have both presented their respective cases.” *Galloway*, 938 N.E.2d at 709 n.10 (citing I.C. § 35–36–2–2(b)). Here, Drs. Sibilla and Monroe did not testify at trial.

sanity can be drawn.” *Id.* at 712.<sup>4</sup> “A conflict does not exist ... where one or several experts testify that the defendant was insane at the time of the offense and another expert testifies that he or she is unable to give an opinion as to the defendant’s sanity at the time of the offense.” *Id.* at 710. That is what happened in this case, albeit in written form.

[14] We are unpersuaded by the State’s attempt to distinguish *Galloway* on its facts in arguing that a conflict exists here. We are also unpersuaded by the State’s reliance on *Green v. State*, 469 N.E.2d 1169 (Ind. 1984), and *Rogers v. State*, 514 N.E.2d 1259 (Ind. 1987), because in both cases, “the conflicting evidence that provided sufficient grounds for the jury’s finding of sanity was based on a conflict between lay testimony and expert testimony, not a conflict between experts.” *Galloway*, 938 N.E.2d at 711. Finally, we note that, “as a matter of

---

<sup>4</sup> The State places particular emphasis on the following language from *Galloway*:

[E]xpert testimony [regarding a defendant’s insanity] is merely advisory, and even unanimous expert testimony is not conclusive on the issue of sanity. *Cate v. State*, 644 N.E.2d 546, 547 (Ind. 1994). The trier of fact is free to disregard the unanimous testimony of experts and rely on conflicting testimony by lay witnesses. *Barany v. State*, 658 N.E.2d 60, 63 (Ind. 1995). And even if there is no conflicting lay testimony, the trier of fact is free to disregard or discredit the expert testimony. *Thompson*, 804 N.E.2d at 1149.

938 N.E.2d at 709. Contrary to the State’s suggestion, the last sentence of this excerpt does not stand for the proposition that a trier of fact may reject expert testimony out of hand, with no evidentiary basis whatsoever. Indeed, in *Thompson*, our Supreme Court concluded that the trial court properly rejected two experts’ opinions that the defendant was insane “in light of the rest of the record[,]” including evidence of her “avoiding criminal responsibility through her illness, her conflicting stories about what happened to her medication, her decision to use illegal drugs and drink alcohol while on her medication, and lies she told one of the examining psychiatrists regarding that use of drugs and alcohol.” 804 N.E.2d at 1150. As *Galloway* clarifies, if expert opinions are unanimous that the defendant was insane, there must be other probative evidence of sanity in the record before the trier of fact may reject an insanity defense. 938 N.E.2d at 712; *see also Barcroft*, 111 N.E.3d at 1003 (“Even when experts are unanimous in their opinion, the factfinder may discredit their testimony—or disregard it altogether—and rely instead on other probative evidence from which to infer the defendant’s sanity.”) (emphasis added). In other words, the broad language in *Thompson* presupposes that the trier of fact has some probative basis for its rejection of expert testimony.

law, a person is either sane or insane at the time of the crime; there is no intermediate ground. The trier of fact therefore has one of only two options with regard to insanity.” *Id.* (citation omitted). Thus, in finding Baxter-Balmer guilty but mentally ill, the trial court improperly relied on Dr. Sibilla’s determination that he was unable to offer an opinion regarding whether she was able to appreciate the wrongfulness of her conduct.

[15] Evidence of probative value from which a conflicting inference of sanity can be drawn “is usually in the form of lay opinion testimony that conflicts with the experts or demeanor evidence that, when considered in light of the other evidence, permits a reasonable inference of sanity to be drawn.” *Id.* at 712. No lay opinion testimony regarding Baxter-Balmer’s sanity was offered in this case,<sup>5</sup> and the only evidence of her demeanor at the time of the crimes appears in the hospital incident report. Baxter-Balmer correctly observes that the “incident report tells of a woman who was behaving erratically and becoming verbally and physically abusive until she was finally medicated by the hospital staff in order to calm down and fall asleep.” Appellant’s Br. at 19. In sum, the report is not probative of whether she was able to appreciate the wrongfulness of her conduct at that time.

---

<sup>5</sup> According to Dr. Monroe’s report, when Baxter-Balmer was asked “what, if anything, she might have done differently, she said, ‘I wouldn’t have cracked a bottle until I was safe in my hotel room.’” Ex. Vol. at 19. The State relies on this statement to argue that, “[i]n simple vulgar terms, the trial court had before it evidence that Defendant was simply drunk and mean, and not insane, and that she was mean *because* she was drunk.” Appellee’s Br. at 15. Baxter-Balmer’s statement is retrospective and sheds no light on her state of mind when she committed the crimes.

[16] Based on the foregoing, we conclude that the evidence is without conflict and leads only to the conclusion that Baxter-Balmer was insane when she committed her crimes. Therefore, we reverse and remand with instructions to find Baxter-Balmer not responsible by reason of insanity and for further proceedings as required by the Indiana Code.<sup>6</sup>

[17] Reversed and remanded.

Brown, J., and Weissmann, J., concur.

ATTORNEY FOR APPELLANT

Aric J. Rutkowski  
South Bend, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Indiana Attorney General

J.T. Whitehead  
Deputy Attorney General  
Indianapolis, Indiana

---

<sup>6</sup> As our Supreme Court explained in *Payne v. State*,

Despite its reputation as a “get out of jail free” card, an insanity acquittal in Indiana requires the prosecuting attorney to petition the trial court for an involuntary commitment proceeding. *See* I.C. § 35-36-2-4(a) (2019). The trial court may then order a defendant committed to “an appropriate facility” or “therapy program” if it finds by “clear and convincing evidence” that the defendant is “mentally ill and either dangerous or gravely disabled.” I.C. § 12-26-2-5(e); I.C. § 12-26-7-5(a). A regular commitment continues until the individual is “discharged from the facility” or “released from the therapy program,” or when the court orders a termination or release. I.C. § 12-26-7-5(b). As a further safeguard, the superintendent of the commitment facility, along with the patient’s attending physician, must conduct and file with the court periodic reviews throughout the commitment. I.C. § 35-36-2-4(d); I.C. § 12-26-15-1.

144 N.E.3d 706, 713-14 (Ind. 2020) (footnote omitted).