

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Shawn Tyler Miller,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 10, 2023

Court of Appeals Case No.
23A-CR-515

Appeal from the Vanderburgh
Superior Court

The Honorable Donald R. Vowels,
Magistrate

Trial Court Cause No.
82D07-2207-CM-3747

Memorandum Decision by Judge Brown
Judges Vaidik and Bradford concur.

Brown, Judge.

[1] Shawn Tyler Miller appeals his conviction for resisting law enforcement as a level 4 felony and claims the evidence is insufficient to sustain his conviction. We affirm.

Facts and Procedural History

[2] On July 5, 2022, Evansville Police Officers Matt Hastings and Cameron Cooper “were dispatched to [an] address on Oak Street [in] reference to a child abuse in progress.” Transcript Volume II at 18. “Upon arrival [the officers] came to the house and . . . were also informed the juvenile was at a separate location where officers were sent, as well, to check his welfare.” *Id.* The officers “knew that there was another juvenile inside the residence” and did not know the condition of that juvenile. *Id.* at 24. The officers approached the house, Officer Cooper knocked on the door, S.D. answered, and the officers had a conversation with her on the porch. Officer Hastings told S.D. the police had received a report that a juvenile had been tied down in the house. Officer Hastings told S.D. the officers would like to look in the juvenile’s bedroom. After speaking with the officers for several minutes, S.D. went back into the house.

[3] Approximately three minutes later, Miller came to the front door, opened the outer glass door, stood in the doorframe, and spoke with the officers. Officer Hastings told Miller the officers would like to see if there were nail holes in the doorframe of the juvenile’s bedroom or evidence related to being tied to the bedposts. After a couple of minutes, Officer Hastings walked away from the porch and toward his police vehicle and spoke on his radio. Officer Hastings asked for “a clothing description of the male” and about thirty seconds later

stated “the suspect is at the door” and that, if the juvenile had obvious bruises, the officers would “snatch him while he is at the door.” State’s Exhibit A at 11:55, 12:35. Officer Hastings was informed by radio by another officer that the juvenile had visible injuries to his wrists consistent with the claim.

[4] Officer Hastings walked back to the porch, the outer glass door was still open, and Miller was still standing in the doorframe. Miller started to speak to Officer Hastings. While Miller was standing in the doorframe and Officer Hastings was outside the door, Officer Hastings placed his hand on Miller’s left arm, started to turn him, and told him to turn around and place his hands behind his back. Miller immediately began to push, shove, and struggle with Officer Hastings. S.D. also began to shove Officer Hastings. During the struggle, Miller, S.D., and Officer Hastings moved through the door to inside the home. Officer Cooper “could see [Miller] struggling, pushing Officer Hastings,” “Officer Hastings was then falling,” and “[t]hey began falling into the home.” Transcript Volume II at 26. Officer Cooper said: “I will tase you.” *Id.* Officer Cooper tased Miller and Miller was placed in handcuffs.

[5] The State charged Miller with resisting law enforcement as a class A misdemeanor. The court held a bench trial at which it admitted a recording taken from Officer Hastings’s body camera. Officer Cooper testified: “Officer Hastings . . . stepped in to detain Mr. Miller for investigative purposes. Immediately when Officer Hastings went to detain him the Defendant began to push him.” *Id.* On cross-examination, when asked, “[a]s I understood it, you said Officer Hastings stepped in to detain the Defendant,” Officer Cooper

replied affirmatively. *Id.* at 27. When asked “when you say stepped in do you mean into the residence,” Officer Cooper answered “[h]e stepped in the door threshold, yes, sir.” *Id.* When asked “[a]cross the threshold,” he replied “[y]es, sir.” *Id.* After the State rested, defense counsel asked the court to suppress the recording of Officer Hastings’s body camera and argued “the facts once they entered the threshold of the home should be suppressed because it was an illegal entry.” *Id.* at 32. The court denied the motion. In closing argument, defense counsel argued “the video in no area or way showed that he resisted. It as well shows an attack on him as it did resistance.” *Id.* at 33. The prosecutor argued the recording shows that Miller pulled away and continued to resist until he was tased. The court stated that it had watched the recording and its “assessment of it is different than the Defendant’s” and found Miller guilty of resisting law enforcement as a class A misdemeanor. *Id.*

Discussion

[6] Miller argues the evidence is insufficient to support his conviction, the officers were not lawfully engaged in their duties, and their “entry into the residence was not lawful.” Appellant’s Brief at 7. He argues: “Without consent or exigent circumstances, the Fourth Amendment required Officers Hastings and Cooper to obtain a warrant before crossing the threshold into the home. However, no warrant was obtained and instead Officer Hastings ‘stepped into the door threshold’ to detain Miller.” *Id.* at 8. Miller cites *Adkisson v. State*, 728 N.E.2d 175 (Ind. App. 2000). He also cites Ind. Code § 35-41-3-2(i) and asserts he had the right to reasonably resist and to not allow the officers into the

residence.¹ The State maintains that Officer Hastings “approached the door, which was fully open, grabbed Miller, who was standing on the edge of the doorframe, and attempted to turn him and place him in handcuffs,” there is no dispute the officers had probable cause to arrest Miller, and “the officers were lawfully engaged in their duties when Miller resisted.” Appellee’s Brief at 9, 13. It argues that Miller was not standing behind a closed or cracked door and, “prior to Officer Hasting[s]’s attempt to handcuff [him], at no time did he attempt to retreat into the home and close the door.” *Id.* at 12.

[7] When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. *Id.* We consider conflicting evidence most favorably to the trial court’s ruling. *Id.* We affirm the conviction unless no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt. *Id.* It is not necessary that the evidence overcome every reasonable hypothesis of innocence. *Id.* at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. *Id.* “Indiana appellate courts reviewing the sufficiency of evidence must apply the same deferential standard of review to video evidence as to other evidence, unless the video evidence indisputably contradicts the trial court’s findings.”

¹ Miller did not cite the statute before the trial court.

Love v. State, 73 N.E.3d 693, 695 (Ind. 2017). “A video indisputably contradicts the trial court’s findings when no reasonable person can view the video and come to a different conclusion.” *Id.* “When determining whether the video evidence is undisputable, a court should assess the video quality including whether the video is grainy or otherwise obscured, the lighting, the angle, the audio and whether the video is a complete depiction of the events at issue, among other things.” *Id.* “In cases where the video evidence is somehow not clear or complete or is subject to different interpretations, we defer to the trial court’s interpretation.” *Id.* at 699-700.

[8] Ind. Code § 35-44.1-3-1(a) provides in part that a person who knowingly or intentionally “forcibly resists, obstructs, or interferes with a law enforcement officer *while the officer is lawfully engaged in the execution of the officer’s duties*” commits resisting law enforcement as a class A misdemeanor. (Emphasis added). The Fourth Amendment protects “the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures[.]” U.S. CONST. amend. IV. Ind. Code § 35-41-3-2(i) provides in part that a person “is justified in using reasonable force against a public servant if the person reasonably believes the force is necessary to: . . . (2) prevent or terminate the public servant’s unlawful entry of or attack on the person’s dwelling, curtilage, or occupied motor vehicle” Ind. Code § 35-41-3-2(j) provides in part that, “[n]otwithstanding subsection (i), a person is not justified in using force against a public servant if: . . . (4) the person reasonably believes the public servant is: (A) acting lawfully; or (B) engaged in the lawful execution of

the public servant's official duties.” Ind. Code § 35-33-1-1 provides that a law enforcement officer may arrest a person when the officer has probable cause to believe the person has committed or attempted to commit a felony or has committed a battery resulting in bodily injury or domestic battery.

[9] In *Johnson v. State*, Officer Scott Johns went to Johnson's residence to issue a dog restraint violation. 747 N.E.2d 623, 626 (Ind. Ct. App. 2001). The officer spoke with Johnson's wife on the porch of the residence, and Johnson appeared in the doorway and screamed at the officer. *Id.* Officer Johns told Johnson that he would be arrested for disorderly conduct if he continued screaming. *Id.* Johnson continued to yell and disrupt the issuance of the citation. *Id.* “As Johnson stood in the doorway to his trailer, Officer Johns grabbed his arm in order to arrest him. Johnson jerked away from the officer and ran into the trailer. Officer Johns followed Johnson into the trailer and a struggle ensued. . . . [T]he officers were able to handcuff the defendant.” *Id.* Johnson was convicted of disorderly conduct and resisting law enforcement. *Id.* at 627.

[10] On appeal, Johnson argued in part there was insufficient evidence to support his resisting law enforcement conviction as the State failed to establish Officer Johns was lawfully engaged in his duties as an officer because he illegally entered his home without a warrant to arrest him. *Id.* at 631. We found:

Johnson relies on *Adkisson v. State*, 728 N.E.2d 175 (Ind. Ct. App. 2000) in arguing that his conviction should be reversed. The State counters that Officer Johns legally arrested Johnson and that *Adkisson* can be distinguished from this case. We agree with the State.

* * * * *

In *Adkisson*, police officers investigated a disturbance between neighbors at an apartment complex. When they arrived at Adkisson's door and knocked, she did not open the door. *Id.* at 176. They spoke to her from outside the closed door. The police officers then left Adkisson's door to question her neighbors and another officer questioned Adkisson. *Id.* At this time, the officer spoke to her while he stood just outside her now open door and Adkisson remained inside her apartment. *Id.* at 177. When Adkisson tried to shut her door, the officer put his foot in the doorway. *Id.* The officer then informed her that she was under arrest and entered her apartment to place her under arrest. *Id.* A struggle ensued between the two before the officer succeeded in handcuffing Adkisson. *Id.* Adkisson was convicted of resisting law enforcement. On appeal, we held that the police officer's forcible entry into Adkisson's home to obtain her arrest was unlawful. *Id.* at 178. We reasoned that her arrest was unlawful because her arrest was not initiated in a public place. *Id.*

This case can be distinguished from *Adkisson*. In this case, when Officer Johns first approached Johnson's door, he knocked on the door and explained why he was there. Johnson then swore at the officer and "slammed" the door on him. Following this, Officer Johns returned to his car and called for backup. Smothers then motioned to Officer Johns from the porch encouraging him to return. Officer Johns then returned to the house and began writing the citation out to Smothers. At some point during their exchange, Johnson returned to the door of the home and began his verbal assault of the officer. Officer Johns testified that Johnson was "standing in the doorway consistently screaming and hollering and cussing." In *Adkisson*, the defendant remained inside her apartment at all times and tried to keep the police officer outside her home by shutting the door. Here, Johnson was in the doorway, not still in the house as in *Adkisson*. Furthermore, on Officer John's second visit to the porch, Johnson opened the door on his own. Officer Johns did not knock for entry. Moreover, Johnson was engaged in a public confrontation with Officer Johns. He was verbally interjecting

himself into the situation between the officer and his wife. In addition, contrary to the officer in *Adkisson* who approached the door without invitation, Smothers invited Officer Johns onto the porch by waving for him to return. Johnson and Smothers took several steps that distinguish this case from *Adkisson*. Therefore, we do not find *Adkisson* persuasive authority to support reversal in this case.

Here, Johnson was standing in the doorway in plain view interfering with Officer Johns' attempt to issue and explain the citation. Furthermore, Officer Johns initiated the arrest of Johnson while Johnson was in the doorway. When the officer entered the home, he was in hot pursuit of Johnson, following him from a public space to a private space. Thus, we find that Officer Johns was lawfully engaged in the execution of his duties when he arrested Johnson.

Id. at 631-632 (citations to record omitted). We held there was sufficient evidence to support Johnson's conviction for resisting law enforcement. *Id.* at 632-633.

[11] Here, Officer Cooper knocked on the door, the officers spoke with S.D. for several minutes, and then Miller came to the door, stood in the doorway, and spoke with the officers for several minutes. Officer Hastings received information from another officer by radio that the juvenile who was not at the home had visible injuries to his wrists consistent with the claim, and the officers knew another juvenile was inside the residence. The recording taken from Officer Hastings's body camera shows that Officer Hastings walked toward Miller while Miller stood in the doorway with a part of his body extending beyond the exterior of the doorframe with the door open, placed his hand on Miller's arm, started to turn him, and instructed him to place his hands behind his back. At that time, Officer Hasting had not entered into or crossed the Court

threshold of the residence. The officers crossed over the threshold only after Officer Hastings placed his hand on Miller and told him to place his hands behind his back and Miller began to push, shove, and struggle. When Officer Hastings told Miller to place his hands behind his back, Miller was in the doorway as in *Johnson* and had not attempted to close the door as in *Adkisson*. Neither officer placed a foot in the doorway or otherwise prevented Miller from closing the door prior to the time Officer Hastings started to detain Miller. Officer Hastings was lawfully engaged in the execution of his duties when he placed his hand on Miller and instructed him to place his hands behind his back. Based upon the record and, even assuming Miller did not waive the argument under Ind. Code § 35-41-3-2, we conclude that reversal is not warranted under the statute and that evidence of probative value exists from which the trier of fact could have found Miller guilty beyond a reasonable doubt of resisting law enforcement as a class A misdemeanor.

[12] For the foregoing reasons, we affirm Miller's conviction.

[13] Affirmed.

Vaidik, J., and Bradford, J., concur.