

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Adam Trenton Jewell,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 31, 2022

Court of Appeals Case No.
21A-CR-1868

Appeal from the Tippecanoe
Superior Court

The Honorable Mathew S. Sandy,
Judge

Trial Court Cause No.
79D04-2009-F6-1001

Altice, Judge.

Case Summary

- [1] Following a jury trial, Adam T. Jewell was convicted of Level 6 felony possession of methamphetamine, Level 6 felony resisting law enforcement, Class A misdemeanor possession of a controlled substance, and Class C misdemeanor possession of paraphernalia. On appeal, Jewell challenges only his conviction for resisting law enforcement, asserting insufficiency of the evidence. The State concedes that its evidence failed to establish the offense as charged.
- [2] We reverse in part and remand.

Facts & Procedural History

- [3] On the evening of September 26, 2020, Lafayette Police Officer Israel Salazar attempted to stop a vehicle that Jewell was driving. The vehicle had a taillight out and an expired license plate. Officer Salazar had learned also that the license plate was not registered to that vehicle.
- [4] To initiate the stop, Officer Salazar pulled up behind Jewell at an intersection and turned on his police cruiser's emergency lights. Jewell saw the lights but kept driving for a block and then turned onto another street. Officer Salazar, still following, turned on his siren. Jewell continued driving and eventually turned down an alley. At that point, Officer Salazar turned off his lights and siren to terminate the stop due to his department's "no pursuit policy." *Transcript* at 36. The attempted stop had gone on for "roughly three city blocks." *Id.* at 37.

[5] When he drove past the alley, however, Officer Salazar observed brake lights and decided to turn down the alley. He found Jewell standing outside the vehicle. Officer Salazar approached and called to him, but Jewell began to walk away to the other side of the vehicle. Officer Salazar then pulled out his taser and told Jewell to get on the ground. Jewell complied and was arrested for resisting law enforcement with a vehicle. A subsequent inventory search of the vehicle resulted in the discovery of drugs and other contraband.

[6] The State charged Jewell with Level 6 felony possession of methamphetamine, Level 6 felony resisting law enforcement, Class A misdemeanor possession of a controlled substance, and Class C misdemeanor possession of paraphernalia. A jury found him guilty as charged and, on July 30, 2021, the trial court sentenced him to a partially suspended, aggregate term of two years. On appeal, Jewell challenges only his conviction for resisting law enforcement.

Discussion & Decision

[7] When addressing sufficiency of the evidence claims, our standard of review is well settled: we do not reweigh the evidence or judge the credibility of the witnesses. *McCallister v. State*, 91 N.E.3d 554, 558 (Ind. 2018). Rather, we consider only the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Purvis v. State*, 87 N.E.3d 1119, 1124 (Ind. Ct. App. 2017). We will affirm a conviction if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009); *see also T.H. v. State*, 92

N.E.3d 624, 626 (Ind. 2018) (“Convictions should be affirmed unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.”).

[8] The resisting law enforcement statute, Ind. Code § 35-44.1-3-1, provides in relevant part:

(a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer ... while the officer is lawfully engaged in the execution of the officer’s duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer’s siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (c).

Subsection (c)(1)(A) of the statute provides that the offense is a Level 6 felony if the person uses a vehicle to commit the offense.

[9] Here, the State charged Jewell with, while using a vehicle, knowingly or intentionally forcibly resisting, obstructing, or interfering with Officer Salazar, while Officer Salazar was lawfully engaged in his duties as a law enforcement

officer. That is, the State specifically charged him with violating subsection (a)(1) of the statute, not subsection (a)(3). The State, therefore, was required to establish at trial that Jewell used force to resist Officer Salazar.

[10] On appeal, the State concedes that the evidence does not support a finding of force. Jewell knowingly or intentionally failed to stop his vehicle for Officer Salazar, but there is no evidence that he used force in doing so. *Cf. O'Connor v. State*, 590 N.E.2d 145, 147-48 (Ind. Ct. App. 1992) (observing that “we are quite prepared to say that use of force is established when the State shows that a high speed driver has attempted to push a police officer off the road”). While Jewell’s failure to stop under the circumstances may well have supported a conviction under subsection (a)(3) of the statute, that was not charged here. *See id.* at 148 (“O’Connor was charged with forcibly resisting a law enforcement officer. He was not charged with fleeing a law enforcement officer, and he cannot be convicted without being charged.”). Consequently, we must reverse Jewell’s conviction for Level 6 felony resisting law enforcement. On remand, the trial court is directed to vacate the conviction and resentence Jewell.

[11] Judgment reversed in part and remanded.

Bailey, J. and Mathias, J., concur.