

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Anthony D. Ware,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

April 10, 2023

Court of Appeals Case No.  
22A-CR-2346

Appeal from the St. Joseph  
Superior Court

The Honorable Elizabeth C.  
Hurley, Judge

Trial Court Cause No.  
71D08-2012-F4-58

**Memorandum Decision by Judge Tavit**  
Judges Vaidik and Foley concur.

**Tavit, Judge.**

# Case Summary

- [1] Anthony Ware was convicted of two counts of arson, Level 4 felonies, following a jury trial. Ware appeals and claims that the State failed to present sufficient evidence to support his convictions. We disagree and, accordingly, affirm.

## Issues

- [2] Ware presents one issue for our review: whether the State presented sufficient evidence to support Ware's convictions for arson.

## Facts and Procedural History

- [3] On December 13, 2020, Ware drove his girlfriend, Kaisha Gunn, to Hickory Village Apartments, where Gunn's friend, Rushanda Clark, lived. Specifically, Clark lived in Apartment 2D of Building 4324 with her son and mother. After dropping Gunn off at Clark's apartment, Ware left. Gunn remained at Clark's apartment for a few hours and then left with another man.
- [4] In the early hours of the next morning, someone knocked on the door of Apartment 2D in Building 4320, where Tranee Taylor and Grady Jones lived. Taylor and Jones did not respond to the knock, but about an hour later, someone again knocked on the door. Jones opened the door to his apartment and saw Ware standing outside. Ware, obviously mistaking Taylor's and Jones's apartment for Clark's apartment, asked if Clark was there. Jones explained that they did not know who Clark was, and Ware left. Later that

night, Taylor awoke because she heard a “crackling” sound. Tr. Vol. II p. 176. She went to investigate and saw a fire burning underneath the door to the apartment. Taylor woke Jones, who attempted to extinguish the fire as Taylor called 911. As Taylor was on the phone, Ware again knocked on the front door. Jones opened the door, and Ware claimed that he saw the fire from “upstairs” and asked what had happened. *Id.* at 177.

[5] Early that same morning, in Building 4324, Clark heard someone knock at her door. Clark looked through the peephole and saw Ware standing outside the door. Clark texted Gunn to say that Ware was looking for Gunn. Clark did not answer the door but continued to watch Ware through the peephole. After a few minutes, Ware walked away and then returned. Clark heard a “spraying” sound and then heard a “flick, flick” sound. *Id.* at 159. Suddenly, the hallway outside the door was ablaze, and Clark’s toe was on fire. Clark could feel heat from the fire through the door. Clark woke her mother and son and escaped through the balcony as she dialed 911.

[6] Police and firefighters arrived at the apartment complex in response to the 911 calls. When they arrived, they saw another fire in Building 4318 that had trapped several residents inside their apartments. Clark, who was outside her apartment waiting for the fires to be extinguished, saw Ware driving his vehicle around the apartment complex. Ware then drove his vehicle over a firehose that was being used to fight the fire, which caused his car to get stuck. Firefighters and police told Ware to leave his car, where it remained until the fire was extinguished. The police asked Ware to identify himself. In response,

Ware lied and told the police that his name was “Tony Dean,” and he gave a false date of birth. *Id.* at 30. Police eventually discovered Ware’s true identity and found that he had an active warrant for his arrest.

[7] At the police station, Ware was interviewed by the police. Ware initially told the police that he did not know Clark and that he was at the apartment complex to visit a friend. He claimed to have been driving around to pick up this friend but then ran over the fire hose. Ware, however, could not recall the name of his supposed friend, nor could he identify in which apartment building his friend lived. After further questioning, Ware admitted that he knew Clark and claimed that he was at the apartment complex to pick up Gunn, who was supposed to be at Clark’s apartment. Ware stated that he had gone to a gas station to put fuel in his car but denied having knocked on anyone’s door or having started any fires. Ware later told the police that “the girls” had set him up. Ex. Vol., State’s Ex. 69.

[8] Meanwhile, investigators looked into the cause of the fires at the apartment complex. Each fire began outside Apartment 2D of the three buildings with a zig-zag pattern that led to the stairwell. The hallways of two of the buildings still smelled of gasoline. From this, the fire inspector determined that the fires were intentionally started by someone pouring gasoline on the carpets in a zig-zag manner. Investigators also obtained a warrant to search Ware’s vehicle. Inside, they found several cigarette lighters and a container of antifreeze. The container of antifreeze smelled like gasoline. Gasoline was also detected on the carpet of apartment building 4318 and inside Ware’s vehicle.

[9] On December 15, 2020, the State charged Ware with Count 1: arson, a Level 4 felony; Count II: arson, a Level 4 felony; and Count III: making a false identity statement, a Class A misdemeanor. A jury trial was held in July 2022, at the conclusion of which the jury found Ware guilty as charged. Ware now appeals.

## Discussion and Decision

[10] Ware claims that the State failed to present sufficient evidence to support his convictions for arson.<sup>1</sup> Claims of insufficient evidence “warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility.” *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). We consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. *Id.* (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). “We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* We affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting

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<sup>1</sup> Ware does not challenge his misdemeanor conviction for making a false identity statement.

*Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)). Given the nature of the crime, almost all arson convictions are based on circumstantial evidence.

*Weisheit v. State*, 26 N.E.3d 3, 12 (Ind. 2015) (citing *Barton v. State*, 490 N.E.2d 317, 318 (Ind. 1986)).

[11] The State charged Ware with arson of a dwelling. This crime is defined by statute as follows:

A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages:

(1) a dwelling of another person without the other person's consent;

\* \* \* \* \*

commits arson, a Level 4 felony.

Ind. Code § 35-43-1-1(a); Appellant's App. Vol. II p. 169.

[12] Ware claims there was insufficient proof that he started the fires. We disagree. The State presented overwhelming circumstantial evidence to support Ware's convictions. Three fires were set on the same night in three buildings of an apartment complex. Each fire was set outside the doors of apartments numbered 2D. Ware dropped off his girlfriend at Clark's apartment, which was numbered 2D. Ware was later seen outside Taylor and Jones's apartment, which was also numbered 2D, but had a different building number than Clark's apartment. Ware asked Jones if Clark was at that apartment. Later that evening, a fire started outside that apartment, and Ware showed up at the scene

and claimed to have seen the fire from elsewhere. That same morning, Ware knocked on the door to Clark's apartment. When Clark did not answer the door, she saw Ware walk away and return. Although Clark did not see Ware set the fire, she heard the sound of a fire being set, and seconds later her door was on fire. Another fire was also started in different apartment building outside apartment number 2D.

[13] All of the fires appeared to have been set in the same manner of pouring an accelerant from the apartment door to the stairwell. Ware was seen driving around as firefighters extinguished the flames, and he drove his car over a firehose. He then lied about his name. A search of Ware's car revealed a container that smelled of gasoline, the same accelerant used to start the fires. Gasoline was also found on fibers inside Ware's car and on the carpet of one of the apartment buildings. When questioned by police, Ware lied and said he had not knocked on anyone's door that night.

[14] From this, the jury could reasonably conclude that Ware was the individual who set the fires in an attempt to punish or get revenge on either Clark, Gunn, or both. He had the means, motive, and opportunity to set the fires. Ware's arguments regarding what the police did not do, or did improperly, are simply a request that we reweigh the evidence, which we cannot do.

[15] Considering only the evidence favorable to the verdicts, along with the reasonable inferences that may be drawn from this evidence, we conclude that the State presented sufficient evidence to prove beyond a reasonable doubt that

Ware knowingly or intentionally damaged the dwelling of other persons using fire. *See Clark v. State*, 562 N.E.2d 11, 16 (Ind. 1990) (sufficient evidence to support defendant's arson conviction where defendant was present at the scene of the fire, which was started by gasoline, the interior of his car smelled of gasoline, and his burned shirt contained gasoline residue); *Martin v. State*, 179 N.E.3d 1060, 1070 (Ind. Ct. App. 2021) (sufficient evidence to support defendant's conviction for arson where a can of acetone was found at the scene of the fire and a search of defendant's home revealed cans of mineral spirits and acetone and certain items associated with the victim), *trans. denied*; *Compton v. State*, 58 N.E.3d 1006, 1013-14 (Ind. Ct. App. 2016) (sufficient evidence to support defendant's arson conviction where defendant was seen at the apartment where the victim lived, defendant threatened to burn the apartment if the victim did not come with him, the apartment began to burn shortly thereafter, and defendant was seen walking away from the fire), *trans. denied*.

## Conclusion

[16] The State presented sufficient evidence to support Ware's convictions for arson. Accordingly, we affirm Ware's convictions.

[17] Affirmed.

Vaidik, J., and Foley, J., concur.