MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

John W. Goudy,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 15, 2022

Court of Appeals Case No. 22A-CR-707

Appeal from the Cass Superior Court

The Honorable James K. Muehlhausen, Judge

Trial Court Cause No. 09D01-1801-F6-6

Bailey, Judge.

Case Summary

[1] John W. Goudy appeals his conviction for contributing to the delinquency of a minor, as a Class A misdemeanor,[1] following a jury trial. We affirm.

Issues

[2] Goudy presents two issues for our review:

1. Whether the trial court abused its discretion when it denied his motion for a mistrial.

2. Whether the State presented sufficient evidence to support his conviction.

Facts and Procedural History

[3] In early 2017, fifteen-year-old H.H. met Goudy, who was forty-six years old. Goudy was an "easy way" for H.H. "to get things," and H.H. would "get cash or get food or whatever" when he texted Goudy. Tr. at 52. On August 18, H.H. wanted to run away. He "needed a ride away from home," so he contacted Goudy. *Id*. at 49. Later that day, when H.H. returned home, H.H.'s mother ("Mother") told H.H. "that he was not to associate" with Goudy. *Id*. at 77. Similarly, on that date, H.H.'s father ("Father") also told H.H. that "he's not to be around" Goudy. *Id*. at 29. After that, Mother reiterated her rule to

[1] Ind. Code § 35-46-1-8(a).

H.H. "[a]bout every time he would leave the house," and Father told H.H. "almost on a daily basis" to not be around Goudy. *Id*. at 29, 78.

[4] On August 24, Mother saw Goudy and told him that she "did not want him around" H.H. *Id*. at 78. And, on August 31, Father told Goudy "to stay away" from H.H. *Id*. at 22. However, H.H. "h[u]ng out with" Goudy "on numerous occasions" and continued to communicate with him. *Id*. at 70. In December, Father confiscated H.H.'s cell phone and reviewed the text messages. Father found text messages from an individual identified as "Cash" who indicated that he was "providing cigarettes" to H.H. *Id*. at 25, 39. Father called the number, and "a man" answered the phone. *Id*. at 26. Father asked the man "if he was John," and the man "said yes." *Id*. When Father indicated that he was H.H.'s father, the man terminated the call.

[5] Thereafter, on January 2, 2018, Father, who was driving his youngest son to Mother's house, saw Goudy driving. Father followed Goudy until he stopped. At that point, Father observed H.H. "get[] out of the passenger side" door. *Id*. at 28. Father called the police.

[6] The State charged Goudy with one count of contributing to the delinquency of a minor, as a Class A misdemeanor.[2] Prior to trial, Goudy filed a motion in limine and, in relevant part, requested that "no witness or the State of Indiana

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[2] The State also charged Goudy with one count of resisting law enforcement, as a Level 6 felony, and one count of invasion of privacy, as a Class A misdemeanor. But the court dismissed those charges on the State's motion.

be allowed to state, infer, or question the Defendant as to matters pertaining to an order of protection[.]" Appellant's App. Vol. 2 at 173. The court granted Goudy's motion.

[7] The court held a jury trial on February 8, 2022. During the trial, Father testified that, at the time H.H. was with Goudy on January 1, 2018, "a Protective Order was in place." Tr. at 27. At that point, Goudy objected. The court sustained Goudy's objection, struck Father's statement, and admonished the jury to "disregard" what Father had said. *Id*.

[8] At the conclusion of Father's testimony, Goudy moved for a mistrial on the ground that Father had violated the order in limine when he mentioned the protective order. Specifically, Goudy testified that "the jury will be tainted" and that the jury was "going to believe that [he] was invading privacy and doing all kinds of things[.]" *Id*. at 30. The State responded that Father was "nervous" and that Father did not have "any intent to break [the court's] Order." *Id*. The court determined that Father's statement was "inadvertent" and a "very brief reference" to the protective order and that its admonishment "would have cured any error." *Id*. at 30-31. As such, the court denied Goudy's motion for a mistrial.

[9] H.H. then testified and acknowledged that his parents had told him to stay away from Goudy in August of 2017 and that he was "breaking [his] parents' rules by communicating" with Goudy. *Id*. at 51. He also testified that, around August 2017, he had informed Goudy that he was not supposed to be around

him. *Id*. at 56. H.H. then admitted that there were "a lot of times" that he was around Goudy between August 2017 and January 2, 2018.

[10] At the conclusion of the trial, the jury found Goudy guilty as charged. The court entered judgment of conviction accordingly and sentenced Goudy to 365 days, with 271 days suspended to probation. This appeal ensued.

Discussion and Decision

Issue One: Motion for Mistrial

[11] Goudy first contends that the trial court abused its discretion when it denied his motion for a mistrial.[3] "[G]ranting or denying a mistrial is reviewed only for abuse of discretion." *Knapp v. State*, 9 N.E.3d 1274, 1283 (Ind. 2014) (quotation marks omitted). A defendant is entitled to a mistrial "only if the defendant demonstrates that he was so prejudiced" by misconduct "that he was placed in a position of grave peril." *Inman v. State*, 4 N.E.3d 190, 198 (Ind. 2014). A "mistrial is an extreme remedy in a criminal case which should be granted only when nothing else can rectify a situation." *Knapp*, 9 N.E.3d at 1284 (quotation marks omitted). "Our deferential review of decisions to grant or deny a mistrial reflects that the trial court is in the best position to gauge the surrounding

[3] The State contends that Father did not violate the motion in limine "because the issue of a protective order was not raised in [Goudy's] motion in limine." Appellee's App. Vol. 2 at 6. But contrary to the State's assertions, Goudy clearly raised the issue of the protective order in his motion. In particular, Goudy requested that "no witness or the State of Indiana be allowed to state, infer, or question the Defendant as to matters pertaining to an order of protection[.]" Appellant's App. Vol. 2 at 173.

circumstances of the event and its impact on the jury." *Id*. (quotation marks omitted).

[12] On appeal, Goudy contends that the court abused its discretion when it denied his motion because "[F]ather's testimony about the issuance of a valid and existing No Contact Order substantially prejudiced [his] ability to receive a fair trial and placed him in grave peril[.]" Appellant's Br. at 20. And he maintains that the violation of the order in limine "had a profound persuasive impact on the jury's ultimate decision in finding him guilty[.]" *Id*. Stated differently, Goudy contends that Father's mention of the protective order placed him in a position of grave peril because it caused the jury to infer that he was guilty of the present charge because he had committed some prior misconduct.

[13] Goudy is correct that Father mentioned the protective order during his testimony. However, as the court determined, Father's statement was brief. In addition, there is no indication in the record that his reference was anything other than a mistake, and there was no other mention of the protective order during the trial. Further, as discussed in more detail below, there was ample independent evidence of Goudy's guilt such that Father's brief mention of a protective order, without more, did not prejudice Goudy to the point of placing him in grave peril.

[14] Moreover, the court struck Father's statement and admonished the jury that it was to not consider what Father had said. It is well settled that, "where the trial court adequately admonishes the jury, such admonishment is presumed to

cure any error that may have occurred." *Johnson v. State*, 901 N.E.2d 1168, 1173 (Ind. Ct. App. 2009). Under these circumstances, we hold that the trial court did not abuse its discretion when it denied Goudy's motion for a mistrial.

Issue Two: Sufficiency of the Evidence

[15] Goudy next contends that the State presented insufficient evidence to support his conviction. Our standard of review on a claim of insufficient evidence is well settled:

> For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh the evidence. *Id*. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id*.

Love v. State, 73 N.E.3d 693, 696 (Ind. 2017).

[16] To convict Goudy of contributing to the delinquency of a minor, as a Class A misdemeanor, the State was required to prove that Goudy, as a person over eighteen years of age, had knowingly or intentionally encouraged, aided, induced, or caused H.H., a child, to commit an act of delinquency as defined by Indiana Code Chapters 31-37-1 or 31-27-2. Ind. Code § 35-46-1-8(a) (2022). As relevant here, it is a delinquent act for a child to "habitually disobey[] the reasonable and lawful commands of a child's parent[.]" I.C. § 31-37-2-5.

[17] Goudy does not dispute that he was over eighteen years of age or that H.H. was a child during the time period in question. But he asserts that the State failed to prove that he had encouraged, aided, induced, or caused H.H. to commit an act of delinquency. He asserts that the entire case "boil[s] down" to "inconsistencies" between Father's, Mother's, and H.H.'s trial testimonies and their testimonies at a prior deposition. Appellant's Br. at 15. And he maintains "there was no corroboration between any of the testimony provided at trial or any of the prior sworn testimony, rather the entire trial was consumed by failures to remember, or remembrance of new details never discussed." *Id*. We cannot agree.

[18] The evidence most favorable to the trial court's judgment demonstrates that H.H.'s parents implemented a reasonable and lawful rule that H.H. not communicate with Goudy. Indeed, on August 18, 2017, both Mother and Father separately informed H.H. that he was "not to associate with" or "be around" Goudy. Tr. at 29, 77. And after that date, Mother reiterated her rule to H.H. "[a]bout every time he would leave the house," and Father told H.H. "almost on a daily basis" to not be around Goudy. *Id*. at 29, 78. The evidence also demonstrates that Goudy was aware of that rule. Mother testified that, on August 24, she told Goudy that she "did not want him around" H.H. *Id*. at 78. Father twice testified that he told Goudy "to stay away" from H.H. on August 31. Tr. at 22, 25. And H.H. testified that, around August 2017, he had informed Goudy that he was not supposed to be around Goudy.

[19] However, despite knowledge of that rule, Goudy continued to allow H.H. to spend time and communicate with him. In December 2017, Father discovered numerous text messages that H.H. and Goudy had exchanged. In addition, H.H. testified that, between August 2017 and January 2018, he "h[u]ng out with" Goudy on "numerous occasions." *Id*. at 70. And, in January 2018, Father witnessed H.H. get out of Goudy's car.

[20] Based on that evidence, a reasonably jury could conclude that Goudy had knowingly or intentionally encouraged, aided, induced, or caused H.H. to habitually disobey a reasonable and lawful command by his parents. Goudy's argument on appeal is simply a request that we reweigh the evidence, which we cannot do. We hold that the State presented sufficient evidence to support Goudy's conviction for contributing to the delinquency of a minor, as a Class A misdemeanor.

Conclusion

[21] The trial court did not abuse its discretion when it denied Goudy's motion for a mistrial. And the State presented sufficient evidence to support Goudy's conviction. We therefore affirm the trial court.

[22] Affirmed.

Bradford, C.J., and Brown, J., concur.