

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brittney Davison,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 1, 2022

Court of Appeals Case No.
21A-CR-2315

Appeal from the
Marion Superior Court

The Honorable
Patrick Murphy, Magistrate

Trial Court Case No.
49D27-2003-F6-8732

Baker, Senior Judge.

Statement of the Case

- [1] Brittney Davison disregarded a police officer's instructions and drove into a construction zone, with the officer pursuing her, until she stopped at a residence. She later struggled with the officer when he stopped her from getting back into her vehicle to drive away. Davison appeals her two convictions of resisting law enforcement, one as a Level 6 felony and one as a Class A misdemeanor.¹ We affirm.

Issue

- [2] Davison raises one claim, which we restate as: whether the evidence is sufficient to sustain her convictions.

Facts and Procedural History

- [3] In February 2020, a sewer line replacement company was working on a repair project along College Avenue in Indianapolis. The job required workers to excavate in the middle of the street, so traffic barricades were in place to block traffic in the construction zone.
- [4] In addition, the company hired off-duty police officers and stationed them at either end of the construction zone to further control traffic. On February 5, 2020, Sergeant J. Bruce Wright of the Lawrence Police Department was parked at the southern end of the construction zone, blocking and redirecting all

¹ Ind. Code § 35-44.1-3-1 (2019).

northbound traffic. He was wearing jeans and a pullover with a law enforcement emblem on it, and he carried his badge and handgun. In addition, he drove a marked police vehicle, which he parked near the barricades.

- [5] Around 12:30 that day, Sergeant Wright saw a large sport utility vehicle approach the traffic barricades. The SUV stopped near him, and he got out of his vehicle and approached the SUV's passenger side.
- [6] The driver was later identified as Davison, and a male companion sat in the front passenger seat. Davison appeared "extremely irritated," and she yelled at Sergeant Wright, "I'm going through." Tr. Vol. 2, p. 172. She further stated that she lived in the area of the construction zone. Sergeant Wright asked Davison to show him her license to verify her address. She complied, but the address on her license was well outside of the zone. When Sergeant Wright asked Davison to confirm where she lived, she said, "up there," but could not give a specific address. *Id.* at 173. He instructed her to take a different route, such as the alleys on either side of College Avenue, to go home.
- [7] At that point, Davison said, "I'm gonna go anyway," and she drove north on College Avenue, disregarding Sergeant Wright's instruction to stop. *Id.* at 175. The sergeant entered his vehicle, turned it around, and followed her, activating his vehicle's lights and siren. Davison drove north, in the northbound lane that was under construction, for two and a half blocks.
- [8] Meanwhile, Tyler McClory and Robert Pedrey were working on the sewer project, and they saw a large SUV enter the construction zone, followed by a

police vehicle with lights and sirens activated. McClory was concerned because the car drove near their work area. Sergeant Wright saw several workers moving away from the street as Davison approached.

[9] Davison parked her SUV along the side of College Avenue. Sergeant Wright got out of his vehicle and told Davison and her companion to stay in their SUV. They ignored his order. Davison told Sergeant Wright that she “had the right to be there,” and she called him a “rent-a-cop.” *Id.* at 145. She also shouted profanities at him.

[10] Next, Davison and her companion walked across the street and entered a house. As they walked away, Sergeant Wright told them he was going to have their vehicle towed, but they did not respond. Davison and her companion left the house two to five minutes later and returned to Sergeant Wright and the SUV. He told them to back away, but they continued to approach the SUV. Davison cursed at him and called him a rent-a-cop for a second time. She further said, “she hadn’t done anything wrong.” *Id.* at 146.

[11] When Davison tried to enter the SUV, Sergeant Wright told her she was under arrest and attempted to pull her back. She tried to pull away from the sergeant and continue entering the SUV. At that point, Davison’s companion struck Sergeant Wright from behind, knocking both men to the ground. Davison’s companion stood up and ran back inside the house, and Davison followed him. Sergeant Wright called for backup.

[12] On March 2, 2020, the State charged Davison with two counts of resisting law enforcement, one as a Level 6 felony (fleeing from law enforcement via a vehicle) and one as a Class A misdemeanor (resisting or obstructing Sergeant Wright), along with one count of false informing, a Class B misdemeanor.² On September 8, 2021, a jury determined Davison was guilty as charged. The trial court imposed a sentence, and this appeal followed.

Discussion and Decision

[13] Davison claims the State failed to present sufficient evidence to support either of her convictions of resisting law enforcement.³ In reviewing a sufficiency of the evidence claim, we do not reweigh the evidence or judge the credibility of the witnesses. *Tyson v. State*, 140 N.E.3d 374, 377 (Ind. Ct. App. 2020), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Johnson v. State*, 833 N.E.2d 516, 517 (Ind. Ct. App. 2005). We affirm the conviction if there is substantial evidence of probative value to support the conclusion of the trier of fact. *Jones v. State*, 938 N.E.2d 1248, 1251 (Ind. Ct. App. 2010).

[14] In order to obtain a conviction against Davison for Level 6 felony resisting law enforcement as charged, the State was required to prove beyond a reasonable

² Ind. Code § 35-44.1-2-3 (2016).

³ Davison does not challenge her conviction of false informing.

doubt that (1) Davison (2) knowingly or intentionally (3) fled from Sergeant Wright (4) using a vehicle (5) after Sergeant Wright identified himself and (6) ordered Davison to stop. Ind. Code § 35-44.1-3-1.

[15] When Davison drove up to the construction zone, Sergeant Wright was wearing clothing that identified him as a police officer, and he was sitting in a marked police vehicle. He instructed Davison to take a different route, but she insisted on driving into the zone, disregarding his order to stop. Sergeant Wright chased her in his vehicle, with lights and sirens activated, but she refused to stop for several blocks, until she reached her destination within the zone. This is ample evidence to sustain her conviction of Level 6 felony resisting law enforcement. *See Jones*, 938 N.E.2d at 1253 (Ind. Ct. App. 2010) (evidence sufficient to sustain conviction of resisting law enforcement by fleeing in a vehicle; officer told Jones, who was driving a vehicle, to stop, but he instead accelerated in reverse for a short distance before striking another vehicle).

[16] Davison claims that she did not intend to flee, pointing to evidence that she drove at a reasonable speed in the construction zone and parked along the side of the street. She further claims she told Sergeant Wright that he could follow her to her home. These claims amount to requests to reweigh the evidence, which our standard of review forbids.

[17] In order to obtain a conviction against Davison for Class A misdemeanor resisting law enforcement as charged, the State was required to prove beyond a

reasonable doubt that (1) Davison (2) knowingly or intentionally (3) forcibly resisted, obstructed, or interfered (4) with Sergeant Wright (5) while he was lawfully engaged in his duties. Ind. Code § 35-44.1-3-1. The word “forcibly” modifies all three verbs (resists, obstructs, or interferes). *Tyson*, 140 N.E.3d at 377. “One ‘forcibly resists’ law enforcement when strong, powerful, violent means are used to evade a law enforcement official’s rightful exercise of his or her duties.” *Spangler v. State*, 607 N.E.2d 720, 723 (Ind. 1993).

[18] Sergeant Wright had determined that Davison’s vehicle needed to be towed out of the construction zone. After she returned from the residence and approached her vehicle, he ordered her to stop, but she continued to approach. When Davison attempted to reenter her vehicle, Sergeant Wright told her she was under arrest and attempted to remove her from the vehicle. She struggled with him and did not acquiesce in being removed from the vehicle. In addition, several workers saw Davison struggle with the sergeant. This is sufficient evidence to sustain her conviction of misdemeanor resisting law enforcement. *See Johnson*, 833 N.E.2d at 518-19 (evidence sufficient to sustain conviction for forcibly resisting or interfering with law enforcement; Johnson “stiffened up” when officers attempted to place him in a transport vehicle, obstructing their efforts).

[19] Davison argues that she did not struggle with Sergeant Wright and was merely the “recipient of physical force.” Appellant’s Br. p. 15. This argument is in substance another request to reweigh the evidence, which we cannot do.

Davison has failed to demonstrate that her convictions of resisting law enforcement are unsupported by the evidence.

Conclusion

[20] For the reasons stated above, we affirm the judgment of the trial court.

[21] Affirmed.

Altice, J., and Weissmann, J., concur.