

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

James Charles Lockridge,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

January 20, 2023

Court of Appeals Case No.
22A-CR-1381

Appeal from the Vanderburgh
Circuit Court

The Honorable Kelli E. Fink,
Magistrate

Trial Court Cause No.
82C01-2201-F4-231

May, Judge.

[1] James Charles Lockridge appeals following his convictions of Level 6 felony domestic battery committed in the presence of a child less than 16 years old¹ and Class A misdemeanor theft.² Lockridge was also adjudicated a habitual offender.³ He raises one issue on appeal, which we revise and restate as whether the trial court committed fundamental error when it instructed the jury to continue to deliberate after a report indicating the jury was at an impasse. We affirm.

Facts and Procedural History

- [2] In January 2022, K.C. lived in a house in Evansville, Indiana, with her two children. She was in a romantic relationship with Lockridge, and he would routinely spend the night at K.C.'s house. Around 11:30 p.m. on January 9, 2022, Lockridge appeared at K.C.'s house even though K.C. had told him earlier in the day not to come to the house after 5:30 p.m. K.C. and Lockridge got into an argument, and Lockridge pushed K.C. to the floor.
- [3] K.C.'s two children were present in the house at the time, and K.C.'s son came downstairs during the argument. K.C. called 911, and Lockridge wrestled the phone away from K.C. while she was speaking with the 911 operator. Lockridge then left the house with K.C.'s phone. K.C. used a different phone

¹ Ind. Code § 35-42-2-1.3(b)(2).

² Ind. Code § 35-43-4-2(a).

³ Ind. Code § 35-50-2-8.

to call 911 a second time after Lockridge left. The police were able to track the location of K.C.'s stolen phone. They found Lockridge still in possession of the phone and arrested him.

- [4] On January 12, 2022, the State charged Lockridge with Level 4 felony burglary,⁴ Level 5 felony strangulation,⁵ Level 6 felony theft,⁶ Level 6 felony domestic battery, Level 5 felony intimidation,⁷ and Class A misdemeanor interfering with the reporting of a crime.⁸ The State later amended the charging information to allege Lockridge was a habitual offender.
- [5] The trial court chose to bifurcate trial on the habitual offender allegation and, beginning on April 4, 2022, held a two-day jury trial regarding the remaining charged offenses. K.C. was hospitalized at the time of trial, and the trial court found her to be an unavailable witness. The State entered into evidence recordings of K.C.'s 911 calls and a transcript of testimony K.C. gave during a hearing on the State's petition to revoke Lockridge's bond in a separate criminal case. At the conclusion of the presentation of evidence, the defense requested directed verdicts as to the counts of Level 4 felony burglary, Level 5 felony intimidation, and Level 6 felony theft on the basis that the State failed to prove

⁴ Ind. Code § 35-43-2-1(1).

⁵ Ind. Code § 35-42-2-9(d).

⁶ Ind. Code § 35-43-4-2(a)(1).

⁷ Ind. Code § 35-45-2-1(b)(2).

⁸ Ind. Code § 35-45-2-5.

each of those counts. The trial court entered not guilty verdicts for the burglary and intimidation counts. The trial court also entered a directed verdict with respect to the Level 6 felony theft count, but the court allowed the lesser-included offense of Class A misdemeanor theft to be decided by the jury.

[6] During deliberations, the jury relayed to the trial court: “We are currently stuck on the Domestic Battery chard [sic] after much discussion. We are 11 to 1 and not likely to change.” (App. Vol. II at 17.) The trial court then sent back the following answer without objection from the parties:⁹ “Please continue to deliberate.” (*Id.*) The jury ultimately returned verdicts finding Lockridge guilty of Level 6 felony domestic battery and Class A misdemeanor theft. The jury found Lockridge not guilty of Level 4 felony burglary and Class A misdemeanor interference with the reporting of a crime. Lockridge then admitted the habitual offender enhancement applied to him.

[7] On May 17, 2022, the trial court sentenced Lockridge to a term of one-and-a-half years for the Level 6 felony domestic battery conviction, and the trial court enhanced Lockridge’s sentence on that count by an additional three years because of the habitual offender finding. The trial court also imposed a one-year sentence for Lockridge’s Class A misdemeanor theft conviction. The trial court ordered that sentence served concurrent with Lockridge’s domestic

⁹ The trial court discussed the jury’s question with both parties, but that discussion occurred off the record and is noted on a hearing journal entry in the Chronological Case Summary.

battery sentence, bringing Lockridge’s aggregate sentence to four-and-one-half years.

Discussion and Decision

[8] Lockridge contends the trial court committed fundamental error when it instructed the jury to continue deliberations after the jury reported it was “stuck” because the instruction “had strong potential to coerce the juror holding the minority position to bend to the will of the majority.” (Appellant’s Br. at 7.) Instructing the jury is generally left to the sound discretion of the trial court, and we usually review such decisions for an abuse of discretion. *Schermerhorn v. State*, 61 N.E.3d 375, 381 (Ind. Ct. App. 2016), *trans. denied*. However, a party that fails to object at trial waives the issue for appellate review unless the error was so substantial as to constitute fundamental error. *Halliburton v. State*, 1 N.E.3d 670, 678 (Ind. 2013).

[9] The fundamental error doctrine “is extremely narrow and available only when the record reveals a clearly blatant violation of basic and elementary principles, where the harm or potential for harm cannot be denied, and [when the] violation is so prejudicial to the rights of the defendant as to make a fair trial impossible.” *Jewell v. State*, 887 N.E.2d 939, 942 (Ind. 2008). “In other words, to establish fundamental error, the defendant must show that, under the circumstances, the trial judge erred in not *sua sponte* raising the issue[.]” *Ryan v. State*, 9 N.E.3d 663, 668 (Ind. 2014), *reh’g denied*. To assess whether fundamental error occurred, we consider the alleged error in context - including

evidence admitted at trial, closing argument, and jury instructions - to determine whether the alleged error “had such *an undeniable and substantial effect on the jury’s decision* that a fair trial was impossible.” *Id.* (emphasis in original).

[10] Lockridge acknowledges he did not object to the jury instruction to continue deliberations before the trial court. He asserts the trial court’s instruction “constituted a blatant violation of basic principles” and contends the trial court should have provided further guidance to the jury after the jury reported it was at an impasse. (Appellant’s Br. at 9) (emphasis removed).

[11] In *Treadway v. State*, the jury sent a note to the trial court reporting that after six hours of deliberation it was unable to reach a consensus verdict. 924 N.E.2d 621, 631 (Ind. 2010). After consulting with the parties, and over the defendant’s objection, the trial court decided to “send the court bailiff in with the instruction that the judge said to please continue deliberating.” *Id.* (internal quotation marks omitted). Our Indiana Supreme Court held the trial court did not err in instructing the jury to continue deliberating. *Id.* at 631-32. The Court referenced the authority Jury Rule 28¹⁰ vests in the trial court to advise a deadlocked jury, but the Court went on to explain:

¹⁰ Indiana Jury Rule 28 became effective on January 1, 2003, and it provides:

If the jury advises the court that it has reached an impasse in its deliberations, the court may, but only in the presence of counsel, and, in a criminal case the parties, inquire of the jurors to determine whether and how the court and counsel can assist them in their

Even before the adoption of our jury rules, this Court has held on several occasions that there is no reversible error where the trial court, after receiving a note from the jury indicating deadlock, instructs the jury to continue deliberating.

Id. at 631. In at least three other cases, our Indiana Supreme Court has not found reversible error when a trial court instructed a jury like the trial court did in the instant case. *See, e.g., Lott v. State*, 690 N.E.2d 204, 210 (Ind. 1997) (holding it was not reversible error for the trial court to instruct the bailiff to tell the jury to continue deliberating even though the trial court failed to notify the parties before issuing the instruction); *Nichols v. State*, 591 N.E.2d 134, 138 (Ind. 1992) (holding trial court erred in responding to a note from the jury without first notifying the parties about the note but the error was harmless because the judge simply told the jury to keep deliberating and updated them on the status of their meal order); and *Wine v. State*, 539 N.E.2d 932, 935 (Ind. 1989) (holding that, while “technically the judge should have brought the parties into the courtroom” before instructing the jury to continue deliberations, “[w]e can see no possible prejudice which appellant could have suffered by reason of the communication between the court and jury”). Thus, we cannot say the instruction to continue deliberating after an initial report from the jury that it was at an impasse violated basic principles of justice.

deliberative process. After receiving the jurors’ response, if any, the court, after consultation with counsel, may direct that further proceedings occur as appropriate.

[12] Lockridge also argues the harm or potential for harm from the instruction was substantial because “the trial court effectively sent a message to the holdout juror: You have two options. Change your mind or change the mind of the eleven other people.” (Appellant’s Br. at 15.) However, we “consider jury instructions as a whole and in reference to each other, not in isolation.” *Murray v. State*, 798 N.E.2d 895, 900 (Ind. Ct. App. 2003). The trial court instructed the jury prior to the beginning of deliberations:

To return a verdict, all of you must agree to it. In other words, it must be unanimous.

Each of you must decide the case for yourself, but only after considering and discussing the evidence with each other. You should try to agree on a verdict, if you can do so without compromising your individual judgment. Do not hesitate to reexamine your own views and change your mind if you believe you are wrong. But do not give up your honest belief just because the other jurors may disagree, or just to end the deliberations.

(App. Vol. II at 111-12.) Thus, the trial court explicitly instructed the jurors not to compromise their honest beliefs just to reach a verdict or end deliberations. Particularly in the context of this instruction, we cannot say the trial court’s simple instruction to continue deliberating was coercive or presented the potential for substantial harm. *See Henri v. Curto*, 908 N.E.2d 196, 202 (Ind. 2009) (holding that, in light of the content of a jury instruction directing jurors not to surrender their honest convictions as to the weight or effect of the evidence solely to appease fellow jurors or to return a verdict, a bailiff’s alleged

statement that the jury would have to keep deliberating until it reached a unanimous verdict did not result in juror coercion or an unfair trial).

Conclusion

[13] The instruction to continue deliberations after the jury reported it was at an impasse did not constitute fundamental error because the instruction did not violate any basic principle of justice or present the potential for substantial harm. Accordingly, we affirm the trial court.

[14] Affirmed.

Crone, J., and Weissmann, J., concur.