

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Daniel Poindexter,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

February 9, 2024
Court of Appeals Case No.
23A-CR-1589
Appeal from the
Marion Superior Court
The Honorable
Ronnie Huerta, Magistrate
Trial Court Cause No.
49D23-2209-CM-26686

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

Case Summary

- [1] Daniel Poindexter appeals his conviction for Class A misdemeanor resisting law enforcement, arguing the evidence is insufficient to support it. We affirm.

Facts and Procedural History

- [2] Indianapolis Metropolitan Police Department (IMPD) Officers Arnaldo Collazo and Khyree Jones were part of an IMPD team assigned to the Broad Ripple area due to violent crime and crowd problems. While on foot patrol early one morning, the officers came upon Poindexter and his girlfriend in a loud argument. The officers told them to stop yelling and cussing, but they continued. After Poindexter yelled “f**k you” to the officers, Tr. p. 112, they warned Poindexter and his girlfriend that they’d be arrested for disorderly conduct if they didn’t stop, but they kept yelling and using profanity and walked away from the officers.
- [3] Poindexter went to his car and sat in the driver’s seat. Officer Jones instructed Poindexter to get out and talk to the officers or they’d arrest him. Poindexter did, but despite Officer Jones’s instructions to calm down and show his ID, Poindexter walked away saying, “Leave me alone,” “Do not touch me, bro,” and “I will take off.” Ex. 1 at 0:58-1:20. Officer Jones followed Poindexter, “placed [his] hand on him,” and told him to calm down. Tr. p. 132. Poindexter put his hand on Officer Jones’s arm, *see* Ex. 1 at 1:22, and then “grab[bed] onto

Officer Jones' outer carrier vest," Tr. p. 113. Officer Jones turned Poindexter around and pushed him toward a wall, at one point putting his arm around Poindexter's neck. *See* Ex. 1 at 1:26.

[4] Once Officer Jones had Poindexter against the wall, he told him to put his hands behind his back, but Poindexter didn't comply and pulled away. Officer Jones grabbed one of Poindexter's arms while Officer Collazo grabbed the other, and they instructed him several more times to put his hands behind his back. Poindexter eventually obeyed, and the officers were able to handcuff him. Again, Poindexter and his girlfriend started yelling at each other and stepped toward each other. Officer Jones instructed Poindexter to stop moving and sit down, but Poindexter didn't, so Officer Jones "conducted a leg sweep maneuver" to take Poindexter to the ground. Tr. p. 133.

[5] The State charged Poindexter with Class A misdemeanor resisting law enforcement and Class B misdemeanor disorderly conduct. At trial, bodycam footage of the incident was played for the jury. Officer Collazo testified and explained that the officers asked Poindexter and his girlfriend to quiet down because a lot of incidents in Broad Ripple start with an argument and turn into a violent crime. Officer Jones testified that when Poindexter grabbed his vest, he "took it as a form of kind of aggression, so him trying to resist," and "at that point [he] had to use physical force." *Id.* at 132. He explained that he turned Poindexter around into the wall because, as a law-enforcement officer, he was trained to "conduct [himself] in a certain way, and then also implement control." *Id.* Officer Jones also testified that he was familiar with IMPD

General Order 1.30 prohibiting chokeholds and that he didn't use a chokehold on Poindexter. Even still, during closing arguments, defense counsel contended that Officer Jones put Poindexter in "a prohibited chokehold that Officer Jones said he is trained never to use" and that Poindexter "had to move" his body "to make sure that he was safe." *Id.* at 149, 152.

[6] The jury found Poindexter guilty of Class A misdemeanor resisting law enforcement and not guilty of Class B misdemeanor disorderly conduct. The court sentenced Poindexter to 365 days in county jail with 361 days suspended.

[7] Poindexter now appeals.

Discussion and Decision

[8] Poindexter contends the evidence is insufficient to sustain his conviction. When reviewing sufficiency-of-the-evidence claims, we neither reweigh the evidence nor judge witness credibility. *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015). We consider only the evidence supporting the verdict and any reasonable inferences that can be drawn from it. *Id.* We will affirm a conviction if there is substantial evidence of probative value to support each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

[9] To convict Poindexter of resisting law enforcement as charged, the State had to prove he knowingly forcibly resisted, obstructed, or interfered with Officer Jones while he was lawfully engaged in his duties as a law-enforcement officer.

Ind. Code § 35-44.1-3-1(a)(1); Appellant’s App. Vol. II p. 21. Poindexter first argues the evidence is insufficient to prove he forcibly resisted. A person “forcibly” resists, obstructs, or interferes with a law-enforcement officer when they use strong, powerful, violent means to impede the officer in the lawful exercise of their duties. *Walker v. State*, 998 N.E.2d 724, 727 (Ind. 2013). An overwhelming or extreme level of force is not required; even a modest exertion of strength, power, or violence may satisfy this element. *Id.*

[10] Poindexter argues his acts of walking away from the officers, failing to obey their commands, refusing to present his hands for cuffing, and pulling away don’t rise to the level of strength, power, or violence required to support a conviction for resisting law enforcement. While our Supreme Court has held that these acts, without more, don’t amount to forcible resistance, *see Walker*, 998 N.E.2d at 725, 728; *Graham v. State*, 903 N.E.2d 963, 965-66 (Ind. 2009), grabbing Officer Jones’s vest is sufficient to sustain Poindexter’s conviction. The bodycam footage also shows Poindexter with his hand around Officer Jones’s arm. *See Ex. 1 at 1:22*. This was more than a modest exertion of strength, power, or violence. *Cf. Spangler v. State*, 607 N.E.2d 720, 724 (Ind. 1993) (finding resistance wasn’t forcible where “[t]here was no strength, power, or violence directed towards the law enforcement official” and “no movement or threatening gesture made in the direction of the official”).

[11] Poindexter maintains the bodycam footage is “insufficient to show that [he] grabbed at the officer’s vest with enough force to constitute forcible resistance,” and that instead, his “brief grasp at the officer’s vest was an instinctual response

to being pushed into his car.” Appellant’s Reply Br. p. 5. But the jury viewed the footage and ultimately concluded Poindexter’s resistance was forcible. We will not second guess that determination. There is sufficient evidence to support the jury’s finding that Poindexter forcibly resisted.

[12] In the alternative, Poindexter argues he “had a right to resist the arrest to prevent bodily injury” because Officer Jones used excessive force when arresting him. Appellant’s Br. p. 18. The general rule in Indiana is that a private citizen may not use force in resisting a peaceful arrest by an individual the citizen knows, or has reason to know, is a police officer performing their duties, no matter if the arrest is lawful or unlawful. *Patterson v. State*, 11 N.E.3d 1036, 1039 (Ind. Ct. App. 2014). But when an officer uses unconstitutionally excessive force in effecting an arrest, that officer is no longer lawfully engaged in the execution of their duties. *Id.*¹

[13] Claims that law-enforcement officers have used excessive force during an arrest are analyzed under the Fourth Amendment to the United States Constitution and its “reasonableness” standard. *Love v. State*, 73 N.E.3d 693, 697 (Ind. 2017). The reasonableness inquiry in an excessive-force case is an objective one; the question is whether the officer’s actions are objectively reasonable given the facts and circumstances confronting them, whatever their underlying intent or

¹ As amended in 2012, Indiana’s self-defense statute allows a person to use reasonable force against a public servant in certain circumstances, including when the person reasonably believes the force is necessary to protect themselves from what they reasonably believe to be the imminent use of unlawful force. I.C. § 35-41-3-2(i). Poindexter does not cite or make an argument under this statute on appeal.

motivation. *Id.* Relevant facts and circumstances to consider include the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. *Patterson*, 11 N.E.3d at 1039.

[14] Poindexter contends he had a right to defend himself because Officer Jones used excessive force when he put him “in an unlawful and unconstitutional neck restraint” and “threw him at a wall.”² Appellant’s Br. p. 14. Officers Jones and Collazo were patrolling an area known for violent crime when they came upon Poindexter in a heated argument. When the officers told Poindexter to stop arguing or he’d be arrested for disorderly conduct, Poindexter continued yelling and using profanity, walked away from the officers, and got in his car. He repeatedly yelled profanities at the officers, ignored their instructions to stop yelling, and walked away as they were trying to investigate. He grabbed Officer Jones’s carrier vest, which Officer Jones took to be an act of aggression and resistance. As Officer Jones tried to handcuff Poindexter, he pulled away and ignored the officers’ commands to put his hands behind his back, leading both officers to grab his arms to handcuff him. Even then, Poindexter continued to argue with his girlfriend while he moved toward her.

² It is worth noting that Poindexter forcibly resisted by grabbing Officer Jones’s vest before Officer Jones put his arm around Poindexter’s neck or pushed him against the wall. This forcible resistance couldn’t have been self-defense because the uses of force Poindexter alleges were excessive hadn’t occurred yet.

[15] Poindexter claims Officer Jones’s force was excessive given that he was only under investigation for disorderly conduct, a nonviolent misdemeanor offense, but Officer Collazo testified that many incidents in Broad Ripple start with an argument and escalate to a violent crime. And while Poindexter claims the neck restraint Officer Jones used violated IMPD General Order 1.30 and Indiana Supreme Court precedent finding chokeholds unconstitutional, Officer Jones testified that he was familiar with the Order and didn’t use a chokehold during the interaction. The jury viewed the bodycam footage and rejected Poindexter’s claim that Officer Jones used a “prohibited chokehold.” Given the facts and circumstances Officer Jones confronted, we find his actions were objectively reasonable and the force he used wasn’t excessive. Poindexter wasn’t entitled to resist the arrest in self-defense.

[16] The evidence is sufficient to sustain Poindexter’s conviction.

[17] Affirmed.

May, J., and Kenworthy, J., concur.