

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ronnie E. Banks, III,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

May 4, 2021

Court of Appeals Case No.
20A-CR-1904

Appeal from the Miami Superior
Court

The Honorable Daniel C. Banina,
Judge

Trial Court Cause No.
52D02-1906-F5-215

Mathias, Judge.

- [1] Following a jury trial, Ronnie Banks, III, was convicted in Miami Superior Court of Level 5 felony aiding, inducing, or causing burglary. He appeals,

arguing that the evidence was insufficient to prove that he knowingly or intentionally acted as an accomplice to the burglary.

[2] We affirm.

Facts and Procedural History

[3] On June 9, 2019, two juveniles, Z.F. and H.P., burglarized Main Street Market—a convenience store in Peru, Indiana—by breaking in through a drive-through window. Once inside, they grabbed an assortment of tobacco products and left through the same window. Z.F. and H.P. then walked to H.P.’s residence, where H.P. called D.R., another juvenile. Banks was with D.R. at the time and gave him a ride to H.P.’s house.

[4] Banks then drove the three juveniles to an alley one block away from Main Street Market. On the way, Z.F. and H.P. discussed the earlier burglary. Banks parked in the alley, and D.R. and Z.F. put on make-shift face coverings. The juveniles proceeded to burglarize Main Street Market a second time, entering through the same drive-through window that was broken in the first burglary. An alarm went off soon after they entered the store, and D.R. and Z.F. grabbed handfuls of cigarettes and cigars and ran back to Banks’s van as fast as they could. With Banks driving, the four “were [initially] just trying to get away.” Tr. Vol. III, p. 31. However, once they realized they were in the clear, Banks and the three juveniles “started plotting on more places [they] could get.” *Id.*

[5] D.R. suggested the group proceed to Peru Smoke Shop, which had an air conditioning unit that could be removed in order to gain access to the building.

Banks again dropped off D.R. and Z.F. near the destination. Once inside the smoke shop, D.R. and Z.F. stole water pipes, tobacco products, and cash. When they returned to the van, D.R. handed Banks around \$200 in stolen money to count. *Id.* at 58.

[6] The next morning, law enforcement officers responded to a call from the manager of Main Street Market. Several store employees reviewed surveillance videos with the officers and identified H.P. from the first burglary. The footage also showed that, just before the second burglary, a dark Chevrolet Venture van drove around Main Street Market's parking lot. The driver had blonde hair and was wearing a light blue shirt.

[7] Officer Shawn Swinford located H.P. later that day and brought the juvenile to the police station to be interviewed. Detective Matthew Feller interviewed H.P., who disclosed Banks's involvement in the second Main Street Market burglary. While H.P. was being interviewed, other officers found Banks, who was wearing a light blue shirt and in the same van that was seen on the security video. Banks declined to speak with Detective Feller without an attorney present and was transported to Miami County Jail on unrelated charges. Meanwhile, the detective obtained and executed a search warrant for the van. He discovered cigarettes, cigars, burnt marijuana residue, and other smoking paraphernalia inside the van.

[8] The state charged Banks with three counts: Level 5 felony aiding, inducing, or causing burglary of Main Street Market; Class A misdemeanor aiding,

inducing, or causing theft of Main Street Market; and Class A misdemeanor theft of Peru Smoke Shop. On September 2, 2020, at the conclusion of a three-day trial, a jury found Banks guilty of the two counts related to Main Street Market and not guilty of the count related to Peru Smoke Shop.

[9] At sentencing, the trial court vacated the misdemeanor conviction due to double jeopardy concerns and sentenced Banks on the Level 5 felony conviction to five years of incarceration, with four and one-half years suspended to probation. *Id.* at 190. Banks now appeals.

Discussion and Decision

[10] Banks contends there was insufficient evidence to support his conviction. In reviewing this claim, “we neither reweigh the evidence nor judge witness credibility.” *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citation omitted). Instead, we respect “the jury’s exclusive province to weigh conflicting evidence.” *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005) (citation omitted). We look to the evidence most favorable to the verdict and reasonable inferences drawn therefrom. *Shuger v. State*, 859 N.E.2d 1226, 1236 (Ind. Ct. App. 2007). And we will affirm if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *Id.*

[11] Banks argues that the State failed to present sufficient evidence that he acted as an accomplice in the second Main Street Market burglary. When it comes to criminal liability, there is generally no distinction between an accomplice and the person who commits the offense. *See Stokes v. State*, 919 N.E.2d 1240, 1245

(Ind. Ct. App. 2010), *trans. denied*. Indeed, Indiana’s accomplice liability statute provides that “a person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense[.]” [Ind. Code § 35-41-2-4](#). For Banks’s burglary conviction to stand, the State needed to establish that he knowingly aided, induced, or caused the juveniles to enter Main Street Market with the intent to commit a felony or theft inside. [I.C. § 35-43-2-1](#).

[12] In arguing the State’s evidence is insufficient, Banks relies solely on inconsistencies between D.R.’s and Z.F.’s trial testimonies. Appellant’s Br. at 11. Specifically, Banks contends that because their testimony was conflicting, a reasonable jury could not conclude that he had knowledge of the planned second burglary when he dropped off D.R. and Z.F. a block from Main Street Market. *Id.* at 7. This argument is merely a request to reweigh the evidence and the credibility of the witnesses, which we will not do.

[13] Instead, to determine whether the State met its burden, we are guided by the following four factors: (1) Banks’s presence at the scene of the crime; (2) his companionship with another at the scene of the crime; (3) his failure to oppose commission of the offense; and (4) his course of conduct before, during, and after occurrence of the crime. [Griffin v. State, 16 N.E.3d 997, 1004 \(Ind. Ct. App. 2014\)](#) (citation omitted). Though presence at the crime scene alone is insufficient to prove that a person is an accomplice, “the court may consider presence in conjunction with other factors that tend to show that one acted as an accomplice to a crime.” *Id.* Turning to those factors here, we conclude that

the State presented sufficient evidence from which the jury could reasonably infer that Banks was an accomplice to the second Main Street Market burglary.

[14] The evidence reveals that Banks was present at the crime scene, showed companionship with the juveniles who committed the offense, and encouraged the burglary. Banks drove D.R. to H.P.'s house and then drove the three juveniles to Main Street Market. On the way, Banks learned that Z.F. and H.P. had burglarized the Main Street Market earlier that day. Although there is conflicting testimony concerning Banks's role in planning the second burglary, D.R. explained that "there's no way [for Banks] not to [have heard the conversation]" because they were all "in a van." Tr. Vol. III, pp. 44–45. After parking the van near Main Street Market, Banks pressured the juveniles into committing the offense. *Id.* at 78–79. And both D.R. and Z.H. covered their faces with masks as they exited Banks's van.

[15] Banks's conviction is further supported by evidence of his conduct both during and after the burglary. During the second Main Street Market burglary, Banks waited for D.R. and Z.F. to return to his van. *Id.* at 27–28; *cf. Woods v. State*, 963 N.E.2d 632, 636 (Ind. Ct. App. 2012) (affirming defendant's conviction as an accomplice after she waited in her car down the street from the crime scene and served as getaway driver when the robber returned). After grabbing merchandise from the store, D.R. and Z.F. ran back to the van "as fast as [they] could," Tr. Vol. III, p. 30, and Banks "spe[d] off" from the area, fulfilling his role as getaway driver, *id.* at 56. Banks proceeded to drive the three juveniles to Peru Smoke Shop to commit another burglary, which was planned at least in

part by Banks. And after burglarizing the smoke shop, D.R. handed Banks between \$100 and \$200 in stolen cash for him “to count.” *Id.* at 58

[16] In short, the jury could reasonably infer from the evidence above that Banks knowingly or intentionally aided, induced, or caused the juveniles to commit the second Main Street Market burglary. And though we acknowledge Banks did not personally enter the store, it is well settled that the acts of his confederates are imputed to him. *See Griffin, 16 N.E.3d at 1005.* We thus conclude Banks has failed to establish that the State’s evidence is insufficient to support his conviction.

Conclusion

[17] The State presented sufficient evidence to prove that Banks was an accomplice to the second Main Street Market burglary.

[18] We affirm.

Riley, J., and Crone, J., concur.