MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Robert Scott Geise,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 8, 2023

Court of Appeals Case No. 22A-CR-2461

Appeal from the Rush Superior Court

The Honorable Brian D. Hill, Judge

Trial Court Cause No. 70D01-2111-F1-676

Memorandum Decision by Judge Tavitas
Judges Vaidik and Foley concur.

Tavitas, Judge.

Case Summary

[1] Robert Geise was convicted of neglect of a dependent, a Level 1 felony; possession of methamphetamine, a Level 6 felony; and possession of a device or substance used to interfere with a drug or alcohol screening test, a Class B misdemeanor. Geise argues that: (1) the trial court abused its discretion by denying his request to sever the drug-related charges from the remaining charges; (2) the trial court abused its discretion by admitting "bad act" evidence under Evidence Rule 404(b); and (3) the evidence is insufficient to support his conviction for neglect of a dependent. We find Geise's arguments without merit and, accordingly, affirm.

Issues

[2] Geise raises three issues on appeal, which we restate as:

I. Whether the trial court abused its discretion by denying Geise's request to sever the drug-related charges from the remaining charges.

II. Whether the trial court committed reversible error by admitting "bad act" evidence under Evidence Rule 404(b).

III. Whether the evidence is sufficient to support Geise's conviction for neglect of a dependent.

Facts

[3] In the summer of 2021, Geise was serving a sentence on home detention in Raleigh, Indiana, for his conviction for operating a vehicle while intoxicated

("OWI"), a Level 6 felony.[1] Geise was living with his girlfriend, Stephanie Glass; their child, A.G.; and Stephanie's two other children, Ez.G. and S.G., whose father is Ethan Glass. S.G. was four years old at the time.

[4] In August 2021, Geise and Stephanie had an argument regarding Geise yelling at Stephanie, and Stephanie threatened to end their relationship. Geise apologized and texted Stephanie: "For the last year or so you have seen me as a ticking time bomb of anger and selfishness"; "On the courthouse steps I told you that you should leave me because I knew what house arrest would do to me"; "I created your fear of me"; and, "I let house arrest [do] this[.]" Ex. Vol. V pp. 55, 75, 101, 114. Geise also stated that he intended to address his anger issues with his therapist. Geise and Stephanie reconciled and stayed together.

[5] From September 17 through 19, 2021, Ethan Glass exercised parenting time with S.G. and observed no abnormal injuries on S.G. On September 21, 2021, Geise stayed home to watch S.G. and A.G. while Stephanie ran errands. Stephanie observed no abnormal injuries on S.G. before she left the house that morning.

[6] At approximately 10:00 or 11:00 a.m., Geise took S.G. outside to play on the backyard playset. The playset consisted of a ladder that led to a platform and a slide. The platform was approximately four feet from the ground.

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[1] Geise was ordered to serve his sentence on home detention on January 27, 2020.

[7] According to Geise, he saw S.G. fall from the playset. Geise claimed that he brought S.G. inside the house, where S.G. complained that S.G. was "hot and dirty." Tr. Vol. III p. 29. Geise attempted to cool S.G. off in the shower. At this point, Geise claimed, S.G. began repeating himself and struggled to speak. Geise brought S.G. to S.G.'s room to watch television, and Geise noticed that S.G.'s "eyes weren't focusing on anything." Tr. Vol. IV p. 9. Shortly thereafter, Geise observed that S.G. had blood and mucus coming out of his nose and mouth. Geise called 911.

[8] First responders soon arrived at the scene and observed that S.G. was "blue," "semi-cold to the touch," unresponsive, pulseless, and had bruising across his face and body. Tr. Vol. II p. 244. Geise told one of the first responders that S.G. fell from S.G.'s bed.

[9] The first responders transported S.G. to Rush Memorial Hospital, where he was seen by Dr. Michael Kim. An examination revealed that S.G. had "significant external bruising" to multiple areas of his face, forehead, neck, chest, abdomen, back, and pubic area. Tr. Vol. III p. 51. Efforts to resuscitate S.G. were unsuccessful, and S.G. was pronounced dead at 12:32 p.m.

[10] Later that day, Geise spoke with Rush County Sheriff's Department Detectives Joshua Brinson and Randy Meek. Geise gave a recorded statement and reported that S.G. was climbing the ladder of the playset and that he slipped when he reached "the top rung or close." *Id.* at 27. Geise reported that he could only see S.G. "from the waist up" when S.G. fell. *Id.* Detective Brinson

went to the hospital to observe S.G. and saw "numerous amounts of bruising that just didn't make sense as to what [] was going on that day." *Id*. at 38.

[11] An autopsy revealed hemorrhages in S.G.'s head and abdomen, both of which were fatal injuries. S.G.'s abdomen contained approximately one liter of pooled blood, which was "more than half of his total circulating blood volume." *Id*. at 63. The forensic pathologist, Dr. Latonja Watkins, determined that S.G. died from "blunt-force injuries to the head and abdomen" and ruled his death a homicide. *Id*. at 133.

[12] On November 1, 2021, law enforcement executed a search of Geise's home. During the search, law enforcement located methamphetamine in Geise's wallet. In the garage, law enforcement found bottles of synthetic urine and a device used to pass drug tests. Law enforcement also conducted a search of Geise's cellphone and discovered text messages in which Geise arranged to purchase buprenorphine, an opioid, on September 20, 2021, and attempted to hide this drug deal from Stephanie.

[13] On November 2, 2021, the State charged Geise with: Count I, neglect of a dependent resulting in death, a Level 1 felony; Count II, aggravated battery resulting in the death of a child less than fourteen years of age, a Level 1 felony; Count IV, possession of methamphetamine, a Level 6 felony; and Count V,

possession of a device or substance used to interfere with a drug or alcohol screening test, a Class B misdemeanor.[2]

[14] On May 13, 2022, the State filed a notice of intent to introduce at trial evidence of Geise's home detention, illegal drug usage, and "marital stress"[3] around the time of the incident "to show motive, knowledge, intent, preparation, plan, identity, absence of mistake or lack of accident." Appellant's App. Vol. II p. 54.

[15] On July 29, 2022, Geise moved to sever Counts IV and V for trial.[4] Geise argued that Counts IV and V were not connected to the other counts and that he would be "denied a fair determination of his guilt or innocence" if Counts IV and V were not severed. *Id*. at 82. The trial court denied the motion. On August 5, 2022, Geise filed a motion in limine to preclude the State from introducing evidence of "prior bad acts, including but not limited to prior criminal arrests or convictions," which the trial court did not rule on until trial. *Id*. at 92.

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[2] The State also charged Geise with Count III, neglect of a dependent resulting in bodily injury, a Level 5 felony. The State later moved to dismiss Count III, which the trial court granted.

[3] Contrary to the State's assertion, Geise and Stephanie were not married.

[4] Geise filed a motion to reconsider on August 23, 2022, which was denied.

[16] The trial court held a jury trial in August 2022, and Geise made a continuing objection to the trial court's denial of Geise's motion to sever. The trial court also denied Geise's motion in limine.

[17] The State introduced the testimony of Geise's case manager, who testified that Geise was serving a sentence on home detention when the incident occurred. The State also proffered, as an exhibit, what appears to be Geise's home detention intake sheet, which states, "Charge: OWI." Ex. Vol. V p. 29. Geise lodged a continuing objection to the testimony, the exhibit, and all other evidence of his prior convictions and status on home detention, which the trial court overruled. The trial court instructed the jury that evidence regarding Geise's prior convictions and status on home detention could be considered "solely on the issue of Defendant's motive and intent." Tr. Vol. II p. 203.

[18] The State also introduced the testimony of Dr. Kim and Dr. Ann Freshour, a specialist in child abuse pediatrics. The physicians opined that S.G.'s injuries could not have all been caused by falling from the playset. Dr. Kim opined that S.G. "was killed by excessive blunt trauma," Tr. Vol. III p. 80, and Dr. Freshour testified that she diagnosed S.G. with "non-accidental trauma or child abuse," *id*. at 56. In addition, Detective Meek testified regarding his interactions with Geise after S.G. was injured and testified that Geise did not appear to be under the influence of drugs at the time.

[19] Geise testified in his own defense and denied harming S.G. Geise testified that he could not see whether S.G. fell from the ladder or another part of the playset.

Regarding Geise's drug-related charges, Geise admitted that he "recreationally abused narcotics in [his] past" and that, for the first two to three weeks of his home detention commitment, he abused suboxone, an opioid. *Id*. at 236. Geise admitted ownership of the wallet, and the parties stipulated that the wallet contained methamphetamine. Geise also admitted that the device found in the garage was a device used to pass drug tests, that the bottles contained synthetic urine, and that he procured opioids for others.

[20] The jury found Geise guilty of Count I, neglect of a dependent resulting in death, a Level 1 felony; Count IV, possession of methamphetamine, a Level 6 felony; and Count V, possession of a device or substance used to interfere with a drug or alcohol screening test, a Class B misdemeanor. The jury found Geise not guilty of Count II, aggravated battery resulting in the death of a child less than fourteen years of age. The trial court entered judgments of conviction on Counts I, IV, and V and sentenced Geise to concurrent sentences of forty years on Count I, one year on Count IV, and 180 days on Count IV. Geise now appeals.

Discussion and Decision

I. Denial of Motion to Sever Charges

[21] Geise first argues that the trial court abused its discretion by denying his motion to sever Counts IV and V, the drug-related charges. We disagree.

[22] The severance of offenses is governed by Indiana Code Section 35-34-1-11(a), which provides:[5]

> Whenever two (2) or more offenses have been joined for trial in the same indictment or information solely on the ground that they are of the same or similar character, the defendant shall have a right to a severance of the offenses. In all other cases the court, upon motion of the defendant or the prosecutor, shall grant a severance of offenses whenever the court determines that severance is appropriate to promote a fair determination of the defendant's guilt or innocence of each offense considering:
>
> (1) the number of offenses charged;
>
> (2) the complexity of the evidence to be offered; and
>
> (3) whether the trier of fact will be able to distinguish the evidence and apply the law intelligently as to each offense.

[23] Geise does not argue that he was entitled to severance as a matter of right, and, therefore, we review the trial court's decision for an abuse of discretion. *Jackson v. State*, 938 N.E.2d 29, 37 (Ind. Ct. App. 2010) (citing *Craig v. State*, 730 N.E.2d 1262, 1265 (Ind. 2000)), *trans. denied*. "On appeal, a defendant 'must show

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[5] Indiana Code Section 35-34-1-9(a) governs the joinder of offenses and provides:

> Two (2) or more offenses may be joined in the same indictment or information, with each offense stated in a separate count, when the offenses:
>
> (1) are of the same or similar character, even if not part of a single scheme or plan; or
>
> (2) are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan.

Geise does not argue that the drug-related charges were improperly joined with the neglect and aggravated battery charges, and we, therefore, do not address that issue.

[that] in light of what actually occurred at trial, the denial of a separate trial subjected him to . . . prejudice.'" *Id*. (quoting *Harvey v. State*, 719 N.E.2d 406, 409 (Ind. Ct. App. 1999)) (internal quotation marks omitted).

[24] Geise relies on the third statutory grounds for severance and argues that the jury was unable to distinguish the evidence and apply the law intelligently because the evidence supporting his drug-related charges permitted the jury to "infer that G[eise] was under the influence at the time that S.G. was injured" and thereby prejudiced Geise's defense.[6] Appellant's Br. p. 18.

[25] We fail to see how Geise's defense was prejudiced by the trial court's denial of his motion to sever the drug-related charges. Geise was charged with possession of methamphetamine and possession of a device or substance used to interfere with a drug or alcohol screening test. The evidence supporting these charges was not discovered until a month after S.G.'s death. The State did not argue that Geise was under the influence of drugs on the day S.G. was injured, and, in fact, Detective Meek testified that Geise did not appear to be under the influence of drugs at that time.

[26] Moreover, Geise testified on direct examination that he had a history of drug addiction, that his addiction was "an itch that doesn't go away," and that he abused opioids for the first two to three weeks of his home detention. Tr. Vol.

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[6] Geise does not argue that he was entitled to severance based on the number of offenses charged or the complexity of the evidence offered.

III p. 238. Any inference that Geise was under the influence of drugs at the time S.G. was injured was, thus, brought on by Geise. *See, e.g.*, *Brewington v. State*, 7 N.E.3d 946, 975 (Ind. 2014) (noting that, under the invited error doctrine, a party may not "take advantage of an error that [he] commits, invites, or which is the natural consequence of [his] own neglect or misconduct.'" (quoting *Wright v. State*, 828 N.E.2d 904, 907 (Ind. 2005))); *Hall v. State*, 137 N.E.3d 279, 284 (Ind. Ct. App. 2019) (holding that defendant invited error regarding admission of "bad act" evidence, including drug-related evidence, when defendant's testimony regarding the "bad act" evidence was elicited on direct examination). Accordingly, we cannot say that the trial court abused its discretion by denying Geise's motion to sever the drug-related charges.

II. Admission of Evidence

[27] Geise next argues that the trial court committed reversible error by admitting, pursuant to Evidence Rule 404(b), evidence regarding Geise's home detention commitment, prior OWI conviction, and drug dealing around the time S.G. was injured. We disagree.

[28] "A trial court has discretion regarding the admission of evidence and its decisions are reviewed only for abuse of discretion." *Hall v. State*, 177 N.E.3d 1183, 1193 (Ind. 2021). We will reverse only if the trial court's ruling was clearly against the logic and effect of the facts and circumstances before it and the error affected the challenging party's substantial rights. *Id.* "The effect of an error on a party's substantial rights turns on the probable impact of the

impermissible evidence upon the jury in light of all the other evidence at trial." *Gonzalez v. State*, 929 N.E.2d 699, 702 (Ind. 2010).

[29] Evidence Rule 404(b) provides, in relevant part:

> (1) *Prohibited Uses.* Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.
>
> (2) *Permitted Uses; Notice in a Criminal Case.* This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. . . .

[30] "When a trial court assesses the admissibility of 404(b) evidence, it must '(1) determine that the evidence of other crimes, wrongs, or acts is relevant to a matter at issue other than the defendant's propensity to commit the charged act and (2) balance the probative value of the evidence against its prejudicial effect pursuant to Rule 403.'" *Nicholson v. State*, 963 N.E.2d 1096, 1100 (Ind. 2012) (quoting *Ortiz v. State,* 716 N.E.2d 345, 350 (Ind. 1999)). In evaluating whether evidence is unfairly prejudicial and should have been excluded, "'courts will look for the dangers that the jury will (1) substantially overestimate the value of the evidence or (2) that the evidence will arouse or inflame the passions or sympathies of the jury.'" *Ward v. State*, 138 N.E.3d 268, 274 (Ind. Ct. App. 2019) (quoting *Duvall v. State*, 978 N.E.2d 417, 428 (Ind. Ct. App. 2012), *trans. denied*). "While all relevant evidence is prejudicial in some sense, the question is not whether the evidence is prejudicial, but whether the evidence is unfairly

prejudicial." *Id*. (citing *Wages v. State*, 863 N.E.2d 408, 412 (Ind. Ct. App. 2007), *trans. denied*).

A. Home Detention

[31] We first address Geise's challenge to the admission of evidence regarding his status on home detention. During the trial, Geise's case manager testified that Geise was on home detention at the time S.G. was injured. Further, the State introduced Geise's text messages to Stephanie in which Geise stated, "For the last year or so you have seen me as a ticking time bomb of anger and selfishness"; "On the courthouse steps I told you that you should leave me because I knew what house arrest would do to me"; "I created your fear of me"; and "I let house arrest [d]o this." Ex. Vol. V pp. 55, 75, 101, 114. Geise also stated in the text messages that he intended to address his anger issues with his therapist. The State argued, in part, that Geise's status on home detention was relevant to his motive for harming S.G. because Geise's home detention "cause[d] stress" between Geise and his family. Tr. Vol. III p. 210.

[32] On appeal, Geise disputes the relevance of his status on home detention to his stress levels at the time S.G. was injured. We conclude, however, that Geise's text messages demonstrate that he was stressed by his home detention at the time S.G. was injured, and Geise does not argue that evidence of his stress is improper evidence of motive. We, therefore, find that the evidence regarding Geise's status on home detention was sufficiently relevant to Geise's motive to harm S.G.

[33] Furthermore, even if Geise's status on home detention was not relevant to his alleged motive to harm S.G., as the State argued at trial, Geise's status on home detention placed him at the home when S.G. was injured. Geise does not argue that his status on home detention was irrelevant to this purpose or that evidence of this purpose is not permitted under Rule 404(b). *See, e.g.*, *Davis v. State*, 186 N.E.3d 1203, 1210 (Ind. Ct. App. 2022) (observing that "Rule 404(b)'s list of permissible purposes is illustrative but not exhaustive" (citing *Hicks v. State*, 690 N.E.2d 215, 219 (Ind. 1997))), *trans. denied*.

[34] We further find that the evidence regarding Geise's home detention was not unfairly prejudicial. Geise's text messages to Stephanie reveal that Geise's status on home detention contributed to his anger-management issues, and these anger management issues were probative as to why Geise would harm S.G. *See id* at 1212 ("'Evidence of motive is always relevant in the proof of a crime[.]'" (quoting *Ross v. State*, 676 N.E.2d 339, 346 (Ind. 1996))). Further, any prejudicial impact from this evidence did not significantly outweigh its probative value. Home detention is usually ordered for low-level offenders, and the jury heard evidence that, despite his home detention commitment, Geise was working full-time to support his family. *Cf. Konopasek v. State*, 946 N.E.2d 23, 28 (Ind. 2011) (holding evidence of defendant's status on probation was not unfairly prejudicial).

[35] Furthermore, the trial court instructed the jury that evidence "that the Defendant was involved in [crimes] other than those charged in the Information and was serving a sentence on Home Detention . . . has been received solely on

the issue of Defendant's motive and intent" and "should be considered by you only for that purpose." Tr. Vol. II p. 203. Given our presumption that juries faithfully follow the trial court's instructions, we presume that a clear and timely limiting instruction "cure[s] any error that might have occurred" unless the defendant proves otherwise. *See Cannon v. State*, 99 N.E.3d 274, 280 (Ind. Ct. App. 2018) (citing *Hyppolite v. State*, 774 N.E.2d 584, 598 (Ind. Ct. App. 2002), *trans. denied*), *trans. denied*); *accord Isom v. State*, 31 N.E.3d 469, 481 (Ind. 2015). Accordingly, we cannot say that the trial court committed reversible error by admitting evidence regarding Geise's status on home detention.

B. OWI Conviction

[36] Geise argues that, even if the trial court properly admitted evidence of his status on home detention, the trial court committed reversible error by admitting evidence that Geise was serving his sentence on home detention for an OWI conviction.

[37] The State never elicited testimony regarding Geise's OWI conviction at trial. The only evidence that the State introduced regarding Geise's OWI conviction appears to be Geise's home detention intake sheet, which states, in the top right corner, "Charge: OWI." Ex. Vol. V p. 29. The intake sheet does not state whether the OWI was a felony or misdemeanor offense. The document was admitted over Geise's objection.

[38] The State fails to explain how Geise's OWI conviction was relevant to any permissible purpose under Rule 404(b). We, however, will only reverse when

the error in admitting evidence affects a party's substantial rights. Geise concedes that "the jury could have been told that [Geise] was serving a home detention sentence for a Level 6 felony . . . ." Appellant's Br. p. 20. Here, the intake sheet does not describe the OWI as a felony at all. The State, moreover, never drew attention to Geise's OWI conviction, and that offense had nothing to do with Geise's child neglect or battery charges.[7] Geise argues that the jury could have inferred that Geise was under the influence at the time S.G. was injured; however, as we have explained, Detective Meek testified that Geise did not appear to be under the influence of drugs on the day of the incident.

[39] Further, as we have also explained, the trial court gave a timely limiting instruction regarding evidence of Geise's prior offenses. Under these facts and circumstances, we cannot say that the evidence of Geise's OWI conviction impermissibly swayed the jury, and accordingly, we cannot say that the trial court committed reversible error. *See Frink v. State*, 568 N.E.2d 535, 537 (Ind. 1991) (holding that admission of defendant's driving record, which listed prior driving offenses, did not constitute reversible error when jury was given limiting instruction but observing that "the better practice would be to conceal the

[7] Geise's OWI conviction bears some similarity to his possession convictions; however, Geise all but admitted to those charges at trial, and he does not specifically challenge them on appeal. *See Hoglund v. State*, 962 N.E.2d 1230, 1238 (Ind. 2012) ("The improper admission is harmless error if the conviction is supported by substantial independent evidence of guilt satisfying the reviewing court there is no substantial likelihood the challenged evidence contributed to the conviction.").

surplus information regarding prior offenses prior to the documents being passed to the jury").

C. Drug Dealing

[40] Lastly, Geise argues that the trial court committed reversible error by admitting evidence of Geise's drug dealing activities. At trial, the State introduced text messages in which Geise arranged to purchase opioids on September 20, 2021, the night before S.G. died, and Geise admitted in his testimony that he purchased those opioids for a coworker. During closing arguments, the prosecutor stated:

> [Geise is] having drugs delivered to his mailbox the night before [S.G.] dies. And he's trying to have you believe that he's having that delivered from someone at work for him to give to someone else at work. . . . And he's going to then deliver to somebody at work but not the next day cause he's taking that day off. That make sense?

Tr. Vol. IV p. 90.

[41] In his brief, Geise only challenges the admission of evidence regarding his drug dealing activities "**after** S.G.'s death." Appellant's Br. p. 20 (emphasis in original). The State argues in its brief that it only offered evidence regarding Geise's drug dealing activities on the night of September 20, 2021, which occurred **before** S.G.'s death and that Geise has waived his argument by failing to challenge that evidence in his brief. In his reply brief, Geise does not suggest that he intended to challenge the admission of evidence regarding his drug

dealing **before** S.G.'s death. Instead, Geise argues that, based on the prosecutor's closing argument, the "State's evidence was not just that Geise participated in a drug deal before S.G.'s death, but that Geise had arranged to participate in another drug deal when he returned to work **after** S.G.'s death." Appellant's Reply p. 6 (emphasis in original).

[42] Geise clearly does not challenge the evidence regarding his drug dealing activities before S.G.'s death, and he does not direct us to any evidence demonstrating that Geise actually engaged in drug dealing activities after S.G.'s death. *See* Ind. App. R. 46(a)(8)(A) (requiring that arguments be "supported by citations to . . . the Appendix or parts of the Record on Appeal relied on"). Geise testified that he bought the buprenorphine for a coworker; however, the jury was not presented with evidence that Geise ultimately sold or otherwise provided the buprenorphine to that coworker. Further, although Geise cites to the prosecutor's closing arguments, "[i]t is axiomatic that the arguments of counsel are not evidence." *Blunt-Keene v. State*, 708 N.E.2d 17, 19 (Ind. Ct. App. 1999) (citing *Young v. Butts*, 685 N.E.2d 147, 150 (Ind. Ct. App. 1997). Here, the trial court instructed the jury that "[s]tatements made by attorneys are not evidence," Appellant's App. Vol. II p. 210, and we "'presume that the jury obeyed the court's instructions in reaching its verdict,'" *Isom*, 31 N.E.3d at 481 (quoting *Tyson v. State*, 386 N.E.2d 1185, 1192 (Ind. 1979)).

[43] Moreover, any error in admitting evidence regarding Geise's drug dealing activities after S.G.'s death would be harmless. As we have explained, Geise volunteered testimony regarding his history of drug addiction and drug usage

during his home detention, and he does not challenge the evidence regarding his drug dealing activities the night before S.G. died. Thus, even if the State did present evidence that Geise engaged in drug dealing after S.G.'s death, Geise fails to explain how that evidence prejudiced him in light of the other evidence presented. *See, e.g., Pelissier v. State*, 122 N.E.3d 983, 988 (Ind. Ct. App. 2019) (holding that any error in admitting evidence was harmless because the challenged evidence "was cumulative of other properly-admitted evidence"), *trans. denied*. Additionally, the State presented extensive medical testimony that demonstrated Geise was responsible for inflicting blunt-force injuries on S.G. As with the other "bad act" evidence that Geise challenges, we cannot say that any evidence regarding Geise's drug dealing activities after S.G.'s death impermissibly swayed the jury.

III. Sufficiency of the Evidence—Neglect of a Dependent

[44] Geise's final argument is that insufficient evidence supports his conviction for neglect of a dependent. He contends that the evidence was insufficient for the jury to find that he **knowingly** neglected S.G. and that any such neglect **resulted** in S.G.'s death. We find the evidence sufficient to establish these elements.

[45] Sufficiency of evidence claims "warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility." *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). "When there are conflicts in the evidence, the jury must resolve them." *Young v. State*, 198 N.E.3d 1172, 1176 (Ind. 2022). We consider only the

evidence supporting the judgment and any reasonable inferences drawn from that evidence. *Powell*, 151 N.E.3d at 262 (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). "We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt." *Id.* at 263. We affirm the conviction "unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict." *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)).

[46] Here, the State charged Geise with neglect of a dependent pursuant to Indiana Code Section 35-46-1-4(a)(1), which provides:

> A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:
>
> > (1) places the dependent in a situation that endangers the dependent's life or health[]
> >
> > * * * * *
>
> commits neglect of a dependent, a Level 6 felony.

The offense is a Level 1 felony if "it is committed . . . by a person at least eighteen (18) years of age and results in the death or catastrophic injury of a

dependent who is less than fourteen (14) years of age . . . ." Ind. Code § 35-46-1-4(b)(3). Geise was convicted of neglect of a dependent as a Level 1 felony.

[47] Geise first contends that the evidence was insufficient for the jury to find that he **knowingly** placed S.G. in a situation that endangered S.G.'s life or health. "Under the child neglect statute a 'knowing' mens rea requires a subjective awareness of a 'high probability' that a dependent has been placed in a dangerous situation." *Villagrana v. State*, 954 N.E.2d 466, 468 (Ind. Ct. App. 2011) (citing *Scruggs v. State*, 883 N.E.2d 189, 191 (Ind. Ct. App. 2008), *trans. denied*); *see also* Ind. Code § 35-41-2-2(b) (defining "knowingly"). To amount to neglect, the danger in which the dependent is placed must be "actual and appreciable." *White v. State*, 547 N.E.2d 831, 835 (Ind. 1989). Further, because a finding that the defendant "knowingly" placed the dependent in a dangerous situation "requires the factfinder to infer the defendant's mental state, this Court must look to all the surrounding circumstances of a case to determine if a guilty verdict is proper." *Villagrana*, 954 N.E.2d 466.

[48] The evidence most favorable to the jury's verdict reveals the following: S.G. suffered two fatal injuries—one to his head and another to his abdomen—as well as bruising across his entire body. S.G.'s injuries were attributed to nonaccidental blunt-force trauma; his injuries could not be explained by a four-foot fall from the playset, as Geise claims. S.G. was under Geise's exclusive care when S.G. was injured, and Geise's status on home detention contributed to anger management issues that had caused rifts in the family on previous occasions. Geise also gave conflicting statements regarding the circumstances

of S.G.'s injuries: he told one first responder that S.G. fell from S.G.'s bed, he told the detectives that S.G. fell from the ladder, and he testified at trial that he could not see from where on the playset S.G. fell. Based on this evidence, the jury could reasonably infer that Geise's anger management issues got the best of him and that he knowingly inflicted blunt-force injuries on S.G. *See Eastman v. State*, 611 N.E.2d 139, 141 (Ind. Ct. App. 1993) (holding evidence was sufficient to support mother's conviction for knowingly placing dependent in dangerous situation when mother "knowingly or intentionally inflicted" injuries on dependent).

[49] Geise asserts that the jury could not have found that he physically injured S.G. because the jury found him not guilty of aggravated battery. As the Indiana Supreme Court has explained, "[t]he evaluation of whether a conviction is supported by sufficient evidence is independent from and irrelevant to the assessment of whether two verdicts are contradictory and irreconcilable." *Beattie v. State*, 924 N.E.2d 643, 648 (Ind. 2010). Indeed, a finding of not guilty does not necessarily indicate that the required facts were not proved; rather, such a finding might also be the product of the jury's "exercise [of] lenity" or "a compromise among disagreeing jurors[.]" *Id*. at 648-49. Accordingly, the jury's finding of not guilty on the aggravated battery charge says nothing about the jury's finding of guilty on the neglect of a dependent charge.

[50] Geise also asserts that "the State failed to present any evidence as to when the injuries occurred, how they occurred, or when S.G. would have begun exhibiting symptoms." Appellant's Br. p. 24. Contrary to Geise's assertion, as

explained above, the evidence indicates that S.G.'s injuries occurred while he was in Geise's exclusive care on the morning of September 21, 2020, and the State presented evidence that S.G.'s injuries were the result of blunt-force injuries. Further, because the evidence was sufficient for the jury to find that Geise physically injured S.G., the timing of S.G.'s symptoms **after** the injuries occurred is irrelevant to the issue of whether Geise knowingly neglected S.G.

[51] Geise next argues that, even if the evidence was sufficient to find that he knowingly neglected S.G., the evidence was nonetheless insufficient to find that the neglect **resulted** in S.G.'s death because S.G.'s death was not "'reasonably foreseeable.'" Appellant's Br. p. 23 (citing *Marksberry v. State*, 185 N.E.3d 437, 445 (Ind. Ct. App. 2022), *trans. denied*). S.G. suffered two fatal injuries that were the result of blunt-force trauma. The evidence was sufficient for the jury to find that Geise was responsible for the blunt-force injuries on S.G. and that these injuries resulted in S.G.'s death. Accordingly, the evidence was sufficient for the jury to find that Geise knowingly placed S.G. in a situation that endangered S.G.'s life or health and that this neglect resulted in S.G.'s death.

Conclusion

[52] The trial court did not abuse its discretion by denying Geise's motion to sever the drug-related charges from the remaining charges, and the trial court did not commit reversible error by admitting "bad act" evidence pursuant to Evidence Rule 404(b). Additionally, the evidence is sufficient to support Geise's conviction for neglect of a dependent. Accordingly, we affirm.

[53] Affirmed.

Vaidik, J., and Foley, J., concur.