

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

John D. Randall,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 10, 2021

Court of Appeals Case No.
20A-CR-1660

Appeal from the Adams Superior
Court

The Honorable Patrick R. Miller,
Judge

Trial Court Cause No.
01D01-1909-F6-232

Pyle, Judge.

Statement of the Case

[1] Following a jury trial, John D. Randall (“Randall”), was found guilty of operating a vehicle while intoxicated, elevated to a Level 6 felony due to a prior conviction,¹ and Level 6 felony obstruction of justice.² The jury also found that Randall was an habitual vehicular substance offender (“HVSO”).³ On appeal, Randall challenges both the elevation of his conviction from a misdemeanor to a felony and the HVSO adjudication, arguing that the State failed to present sufficient evidence that he had the required prior unrelated convictions. Concluding that there was sufficient evidence, we affirm the felony elevation and HVSO adjudication.

[2] We affirm.

Issue

Whether the State presented sufficient evidence to support the elevation of Randall’s conviction to a felony and his HVSO adjudication.

Facts

[3] The State charged Randall with: (1) Class A misdemeanor operating a vehicle while intoxicated, endangering a person; (2) Class C misdemeanor operating a

¹ IND. CODE § 9-30-5-2, I.C. § 9-30-5-3.

² I.C. § 35-44.1-2-2.

³ I.C. § 9-30-15.5-2.

vehicle while intoxicated; and (3) Level 6 felony obstruction of justice. On a separate page, the State also filed an information seeking to elevate the two operating offenses to Level 6 felonies due to a prior conviction for operating a vehicle while intoxicated. Additionally, the State alleged that Randall was an HVSO for having accumulated two or more prior unrelated vehicular substance offense convictions.

[4] Randall's trifurcated jury trial occurred in August 2020. Following the first phase, the jury found Randall guilty of all three counts. The second phase, wherein the jury considered whether Randall had been convicted of operating a vehicle while intoxicated within the previous seven years, began immediately after the conclusion of phase one. During this enhancement phase, Adams County Sheriff Deputy Daniel Heckard ("Deputy Heckard") testified that he had obtained Randall's personal information, including his full name, race, sex, date of birth, driver's license, and social security number. He also explained that he had performed a criminal history check, which revealed that Randall had a previous conviction for operating a vehicle while intoxicated from Allen County under cause number 02C01-1603-F6-236 ("Cause F6-236") in 2016. According to Deputy Heckard, the John D. Randall with the previous conviction under Cause F6-236 was the same John D. Randall sitting in the courtroom that day. The State then introduced, without objection, State's Exhibit 4, a twenty-four (24) page document that contained certified copies of the chronological case summary ("CCS"), charging information, probable

cause affidavit, plea agreement, and sentencing order from Cause F6-236.

Thereafter, the jury found Randall guilty of the enhancement.

[5] During the third and final phase, the jury considered Randall's HVSO allegation. Deputy Heckard testified that he had discovered that Randall had an additional conviction for operating a vehicle while intoxicated from Allen County under cause number 02D04-1502-CM-521 ("Cause CM-521") in 2015. Deputy Heckard explained that he was able to confirm Randall's identity through his name, race, sex, date of birth, driver's license number, and social security number. Thereafter, the State introduced, without objection, State's Exhibit 5, an eleven (11) page document that contained certified copies of the CCS, charging information, probable cause affidavit, plea agreement, court summons, and confinement order from Cause CM-521. The jury then found that Randall had two prior unrelated vehicular substance offense convictions for the HVSO adjudication.

[6] At Randall's subsequent sentencing hearing, the trial court enhanced Randall's Class C misdemeanor conviction to a Level 6 felony, entered judgment of conviction, and vacated Randall's other operating convictions on double jeopardy grounds. The trial court also entered judgment of conviction for the Level 6 felony obstruction of justice. The trial court then sentenced Randall to two-and-one-half (2½) years for the operating conviction, enhanced by six (6) years due to the HVSO adjudication. The trial court also sentenced Randall to a concurrent two-and-one-half (2½) year sentence for the obstruction of justice

conviction. The trial court ordered Randall to serve his sentence in the Department of Correction. Randall now appeals.

Decision

- [7] Randall argues that there was insufficient evidence to support the elevation of his conviction from a Class C misdemeanor to a Level 6 felony and his HVSO adjudication. Randall does not challenge the sufficiency of the evidence for his operating a vehicle while intoxicated conviction; rather, he contends that the “State failed to call any witnesses to identify Randall as the defendant in the previous convictions . . . and failed to present Randall’s identifiers such that the jury could reasonably identify Randall as the same defendant.” (Randall’s Br. 8).
- [8] Our standard of review for sufficiency of evidence claims is well-settled. We do not assess the credibility of the witnesses or reweigh the evidence in determining whether the evidence is sufficient. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We consider the probative evidence and reasonable inferences supporting the verdict. *Id.* Reversal is appropriate only when no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*
- [9] When reviewing the issue of insufficient evidence to support a prior felony conviction, we must consider only evidence with substantial probative value. *Dexter v. State*, 959 N.E.2d 235, 239 (Ind. 2012). Our supreme court has explained that:

Certified copies of judgments or commitments containing a defendant's name or a similar name may be introduced to prove the commission of prior felonies. While there must be supporting evidence to identify the defendant as the person named in the documents, the evidence may be circumstantial. If the evidence yields a logical and reasonable inference from which the finder of fact may determine beyond a reasonable doubt that it was the defendant who was convicted of the prior felony, then a sufficient connection has been shown.

Tyson v. State, 766 N.E.2d 715, 718 (Ind. 2002) (internal citations omitted).

Furthermore, we have explained that when proving a prior conviction, “[t]he issue is proof beyond a reasonable doubt, and that proof may be achieved by the use of any properly admissible evidence sufficient to establish the ultimate fact.”

Grant v. State, 870 N.E.2d 1049, 1051 (Ind. Ct. App. 2007), *trans. denied*.

[10] To elevate Randall's operating conviction to a Level 6 felony, the State was required to prove that Randall “ha[d] a previous conviction of operating while intoxicated that occurred within the seven (7) years immediately preceding” the commission of the instant offense. I.C. § 9-30-5-3. Further, to prove Randall was an HVSO, the State was required to prove that Randall had accumulated two prior unrelated vehicular substance offense convictions, one of which had occurred within ten years before the commission of the instant offense. *See* I.C. § 9-30-15.5-2.

[11] Randall's argument on appeal relies on the proposition that “a matching name and birth date, absent other identifying evidence, are not sufficient to prove identity.” *Payne v. State*, 96 N.E.3d 606, 612 (Ind. Ct. App. 2018), *trans. denied*. However, contrary to Randall's contention, the evidence presented at trial was

sufficient for a jury to be convinced of Randall's identity to support the felony enhancement and HVSO adjudication. Turning first to the felony enhancement, the State introduced State's Exhibit 4, which contained certified copies of the CCS, charging information, probable cause affidavit, plea agreement, and sentencing order for *State of Indiana v. John D. Randall* under Cause F6-236. State's Exhibit 4 established that John D. Randall had pled guilty to Level 6 felony operating a vehicle while intoxicated in 2016. Additionally, Deputy Heckard testified that he had performed a criminal history check and discovered that Randall had a previous conviction for operating while intoxicated under Cause F6-236. Deputy Heckard further explained that he was able to identify Randall as the same person who had committed the previous operating offense under Cause F6-236 by comparing Randall's personal information, including full name, date of birth, driver's license number, and social security number.

[12] Similarly, during the third phase of Randall's jury trial, the State introduced State's Exhibit 5, which contained certified copies of the CCS, charging information, probable cause affidavit, plea agreement, court summary, and confinement order for *State of Indiana v. John D. Randall* under Cause CM-521. State's Exhibit 5 established that Randall pled guilty to Class C misdemeanor operating a vehicle while intoxicated. Deputy Heckard confirmed that he had performed a criminal history check and discovered that Randall had an additional conviction for operating a vehicle while intoxicated from 2015 under Cause CM-521. Deputy Heckard explained that he was able to identify Randall

as the same person who had committed the previous operating offense under Cause CM-521 by his personal information.

[13] Based on the above, we conclude that a reasonable jury could find, beyond a reasonable doubt, that the John D. Randall in this case was the same John D. Randall who was convicted of Level 6 felony operating a vehicle while intoxicated in Cause F6-236 and Class C misdemeanor operating a vehicle while intoxicated in Cause CM-521. Thus, the evidence was sufficient to support the jury’s finding that Randall had the necessary prior convictions for the felony enhancement and HVSO adjudication.⁴ *See Griffith v. State*, 59 N.E.3d 947, 958 (Ind. 2016) (stating that we will reverse on a sufficiency-of-the-evidence claim only if “no reasonable factfinder could find the defendant guilty”).

[14] Affirmed.

Vaidik, J., and Brown, J., concur.

⁴ Notwithstanding our decision, we recognize that this case was a close call. We strongly encourage prosecutors to do more than the bare minimum when identifying a particular defendant as the same individual with the prior convictions. Indeed, “the best practice for prosecutors is not to rely solely on name, date of birth, and social security numbers; prosecutors should seek to include other methods of identification such as booking photographs, fingerprints, affidavits, physical identifiers, or testimony of witnesses.” *Payne*, 96 N.E.3d at 612 n.4.