MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Michael Blackmore,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 19, 2023

Court of Appeals Case No. 23A-CR-7

Appeal from the Marion Superior Court

The Honorable Helen W. Marchal, Judge

The Honorable Matthew E. Symons, Magistrate

Trial Court Cause No. 49D26-2210-CM-26946

Memorandum Decision by Judge Bailey
Judges Tavitas and Kenworthy concur.

Bailey, Judge.

Case Summary

[1] Michael Blackmore appeals his conviction following a bench trial for resisting law enforcement, as a Class A misdemeanor.[1] Blackmore raises two issues, which we consolidate and restate as whether the State presented sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

[2] On October 3, 2022, Indianapolis Metropolitan Police Detective Christopher Houdashelt was assigned to locate Blackmore on an "outstanding warrant." Tr. at 24. Detective Houdashelt and other undercover officers conducted surveillance at some of Blackmore's known locations, and an officer observed Blackmore exit a building and enter a car. Detective Houdashelt followed the vehicle and asked Officer Jonathan Willey, who was in a fully marked police car, to assist.

[3] At some point, Blackmore exited the vehicle and began walking down the road. Blackmore then "look[ed] in the direction of the marked vehicle," and walked faster. Officer Willey turned his vehicle toward Blackmore, and Blackmore "took off running." *Id*. at 37. Officer Willey, who was in "full police uniform,"

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[1] Ind. Code § 35-44.1-3-1(a)(3) (2022).

exited his marked car, "yelled 'stop, police,'" and "started chasing" Blackmore. *Id*. at 33, 37. Blackmore dropped a backpack he was carrying and "continued to run" down the street. *Id*. Blackmore disregarded Officer Willey's commands to stop and jumped over a gate to keep running. Officer Willey ultimately "caught up to" and detained Blackmore. *Id*. at 29.

[4] The State charged Blackmore with one count of resisting law enforcement, as a Class A misdemeanor. The court held a bench trial on October 12. During the trial, Detective Houdashelt testified that he had heard Officer Willey give "multiple commands" to Blackmore, including "stop, police." *Id*. at 26, 28. Detective Houdashelt also testified that Blackmore did not stop running after Officer Willey's first command. Similarly, Officer Willey testified that he told Blackmore to stop "two or three times." *Id*. at 37.

[5] After the State had rested, Blackmore moved for an involuntary dismissal pursuant to Indiana Trial Rule 41(B). In particular, Blackmore asserted that the State had failed to "meet [its] burden with evidence to show that Mr. Blackmore knowingly did not obey a command of an officer." *Id*. at 43. The court denied that motion, found Blackmore guilty, and entered judgment of conviction accordingly. The court then sentenced Blackmore to one hundred forty-two days. This appeal ensued.

Discussion and Decision

[6] Blackmore raises two issues on appeal. First, he contends that there was insufficient evidence to support his conviction. Our standard of review on a claim of insufficient evidence is well settled:

> For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh the evidence. *Id*. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id*.

Love v. State, 73 N.E.3d 693, 696 (Ind. 2017).

[7] Second, he contends that the court clearly erred when it denied his Trial Rule 41(B) motion for involuntary dismissal. Indiana Trial Rule 41(B) states, in pertinent part:

> After the plaintiff or party with the burden of proof upon an issue, in an action tried by the court without a jury, has completed the presentation of his evidence thereon, the opposing party, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the weight of the evidence and the law there has been shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. . . .

In a criminal action, "[t]he defendant's [Trial Rule 41(B)] motion is essentially a test of the sufficiency of the State's evidence." *Workman v. State*, 716 N.E.2d

445, 448 (Ind. 1999). Thus, the crux of both of Blackmore's arguments is that the State failed to present sufficient evidence to support his conviction.[2]

[8] Here, the evidence presented by the State was sufficient to both defeat Blackmore's motion for involuntary dismissal and to support his conviction. To show that Blackmore committed resisting law enforcement, as a Class A misdemeanor, the State was required to prove that he had knowingly or intentionally fled from a law enforcement officer after the officer had, by visible or audible means, identified himself and ordered the person to stop. *See* Ind. Code § 35-44.1-3-1(a)(3) (2022). On appeal, Blackmore contends that the State failed to present sufficient evidence to show that he knowingly or intentionally disobeyed an officer's command because it was "mere speculation" that he saw Officer Willey's police car. Appellant's Br. at 11. Specifically, he alleges that he was "twenty (20) to thirty (30) yards" away from Officer Willey when he began to run and that he began running "prior to" Officer Willey exiting his car. *Id*. And he asserts that there is "no evidence Officer Willey activated his emergency lights or siren[.]" *Id*. at 13.

[9] However, Blackmore's arguments are essentially requests for this Court to reweigh the evidence. The State presented evidence that officers observed Blackmore exit a vehicle and begin to walk down a street. Then, officers saw

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[2] While our review of the denial of a motion for involuntary dismissal is limited to the State's evidence presented during its case-in-chief, *see Harco, Inc. v. Plainfield Interstate Fam. Dining Assocs*., 758 N.E.2d 931, 938 (Ind. Ct. App. 2001), the State's evidence was the only evidence presented during Blackmore's bench trial.

Blackmore "look toward" the marked police vehicles and start "walking quickly[.]" Tr. at 32. When Officer Willey turned his fully marked police car in the direction of Blackmore, Blackmore "dropped" his backpack and "took off running." *Id*. at 37. Officer Willey, who was in full police uniform, then exited his car, "yelled 'stop, police,'" and began chasing Blackmore. *Id*. at 37. Officer Willey ordered Blackmore to stop "two or three times," but Blackmore did not stop. *Id*. at 38. Instead, Blackmore continued to run, including jumping over a fence, until Officer Willey ultimately caught up to him.

[10] Based on that evidence, a reasonable fact-finder could conclude that Blackmore knowingly or intentionally fled from Officer Willey after Officer Willey identified himself and ordered Blackmore to stop. Accordingly, we hold that the court did not err when it denied Blackmore's motion for involuntary dismissal and that the State presented sufficient evidence to support Blackmore's conviction. We therefore affirm the trial court.

[11] Affirmed.

Tavitas, J., and Kenworthy, J., concur.