

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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John Amos,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

April 27, 2023

Court of Appeals Case No.  
22A-CR-2187

Appeal from the Marion County  
Superior Court

The Honorable Grant Hawkins,  
Judge

Trial Court Cause No.  
49D31-1906-25551

**Memorandum Decision by Judge Bradford**  
Judges May and Mathias concur.

**Bradford, Judge.**

## Case Summary

[1] On two different nights, John Amos committed arson at two different Indianapolis residences, lighting several fires at each. The State charged Amos with eight counts of arson. Counts I, II, III charged Amos with Level 4 felonies for arson committed at a residence endangering an occupant, causing \$5000.00 worth of damage, and damaging a dwelling. Counts IV and V charged Amos with Level 4 felonies for arson committed at a residence endangering an occupant and damaging a dwelling. Counts VI and VII charged Amos with arson as Level 6 felonies for damaging two vehicles. Count VIII charged Amos with arson as a Level 6 felony for causing damage over \$250.00 but less than \$5000.00 to the second residence. The State moved to dismiss Count VII, which motion the trial court granted. After a bench trial, the trial court found Amos guilty as charged and sentenced him to ten years executed with two years suspended on Counts I, II, and III, eight years executed with two years suspended on Counts IV, V, and VI, and two years executed on Count VIII. The trial court ordered Counts I, II, and III to be served concurrently, Counts IV, V, VI, and VIII to be served concurrently, but consecutively to Counts I, II, and III, resulting in an aggregate sentence of eighteen years executed with four years suspended to probation. Amos argues that his convictions for multiple counts arising from only two arsons violates Indiana's prohibition on double jeopardy, and the State agrees. We affirm in part, reverse in part, and remand with instructions.

## Facts and Procedural History

- [2] Edward Trammell lives in a home on Broadway Street (“the Broadway House”) with his grandson, Javion. The Broadway House also contained a separate apartment inhabited by Greg and Kimberly Smith. Trammell’s daughter had engaged in a relationship with Amos when they were both teenagers, which resulted in a son, Javion; however, the relationship ended when Javion was born. By the summer of 2019, Javion was an adult and Amos began visiting the Broadway House for various reasons. On numerous occasions, without invitation from Trammell, Amos would sleep overnight on the porch or in the gazebo. On June 20, 2019, Trammell told Amos that he could no longer visit. The next day, Amos sent Trammell threatening text messages including, “Allah the just god is going to kill you[,]” “your sins have reached the heavens and your time has come[,]” and “Allah the god of justice is on the scene and he is prepared to kill.” Ex. Vol. I pp. 85–86.
- [3] On June 22, 2019, at around 4:00 a.m., Amos went to the Broadway House while Trammell and the Smiths were asleep. Using some clothes and charcoal, Amos lit a fire at the front door and lit another fire at the back door. With both exits blocked by the fires, Trammell had to escape by leaping from the roof while the Smiths escaped from their apartment door. Greg Smith testified that while he had been speaking with first responders, Amos had approached him and “alluded to, ‘Allah’s justice[.]’” Tr. Vol. III p. 14. An Indianapolis Metropolitan Police Department detective attempted to speak with Amos at the scene; however, Amos had fled down a nearby alley and no officers could

locate him. The fires caused more than \$5000.00 in damage to the Broadway House, with insurance paying over \$500,000.00.

[4] The next night, Ian Sizemore and Alexis Bullock were at Bullock's parents' house on Lawrence Avenue ("the Lawrence House"). At 1:00 a.m., Sizemore and Bullock were awakened by a car alarm and someone pounding at the door. When the two went outside, they saw that the front part of Sizemore's car had become engulfed in flames, someone had attempted to light a fire on Bullock's car, a fire had been lit at the rear entrance to the home, and another fire had been lit in a pile of debris at the home's front entrance. All told, there were "six points of origin for fires between vehicles and the various areas around the house and garage[,]” but only two caused significant damage. Tr. Vol. II p. 172. The fire on Sizemore's car resulted in a total loss and the fire at the back door caused approximately \$2000.00. Police obtained footage from a neighbor's security camera that had captured a man, later identified to be Amos, moving around the yard and collecting the items which he had used to start the fires.

[5] On June 28, 2019, the State charged Amos with eight counts of arson under Indiana Code section 35-43-1-1(a)(1)–(3) and (d). Counts I, II, and III charged Amos with Level 4 felonies for arson committed at the Broadway House endangering an occupant, causing \$5000.00 worth of damage, and damaging a dwelling. Counts IV and V charged Amos with Level 4 felonies for arson committed at the Lawrence House endangering an occupant and damaging a dwelling. Counts VI and VII charged Amos with arson as Level 6 felonies for

damaging two vehicles at the Lawrence House. Count VIII charged Amos with arson as a Level 6 felony for causing damage over \$250.00 but less than \$5,000.00 to the Lawrence House.

[6] The case proceeded to a bench trial on July 14 and 27, 2022. At the conclusion of its case, the State moved to dismiss Count VII, which motion the trial court granted. The trial court then found Amos guilty as charged on the remaining counts. Ultimately, the trial court sentenced Amos to ten years executed with two years suspended on Counts I, II, and III, eight years executed with two years suspended on Counts IV, V, and VI, and two years executed on Count VIII. The trial court ordered Counts I, II, and III to be served concurrently, Counts IV, V, VI, and VIII to be served concurrently with each other, but consecutively to Counts I, II, and III, resulting in an aggregate sentence of eighteen years executed with four years suspended to probation.

## Discussion and Decision

[7] Amos argues that his convictions for multiple felonies at each residence, when the arson statute does not authorize multiple punishments for a single arson, violates Indiana’s prohibition on substantive double jeopardy. The State agrees. Article 1, Section 14 of the Indiana Constitution provides that “[n]o person shall be put in jeopardy twice for the same offense.”

[8] The parties agree that multiple convictions for a single arson violate Indiana’s bar against double jeopardy and direct our attention to *Morales v. State*, 165

N.E.3d 1002 (Ind. Ct. App. 2021), *trans. denied*. There, the defendant “set a series of fires within the parole offices during a thirty-minute window” that “simultaneously damaged the building and endangered human life.” *Id.* at 1009. We have previously concluded that, under some circumstances, multiple arsons charged under Indiana Code section 35-43-1-1(a)(1)–(4) constitute one transaction. *Matthews v. State*, 849 N.E.2d 578, 587 (Ind. 2006). The question is whether the defendant’s actions were “so compressed in terms of time, place, singleness of purpose, and continuity of action as to constitute a single transaction.” *Powell v. State*, 151 N.E.3d 256, 264 (Ind. 2020). We agree with the parties that *Morales* controls and that the evidence in this case demonstrates that Amos’s actions at each residence were compressed in time and were continuous and indistinguishable. As such, the facts of this case indicate that Amos only committed one punishable arson at each residence.

[9] Consequently, we affirm Amos’s conviction for Count I as it relates to the Broadway House and Count IV as it relates to the Lawrence House. We, however, reverse his convictions for Counts II, III, V, VI, and VIII and remand to the trial court with instructions to vacate those counts and re-sentence Amos on Counts I and IV.

[10] The judgment of the trial court is affirmed in part, reversed in part, and remanded with instructions.

May, J., and Mathias, J., concur.