

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Anthony K. Wright,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

June 6, 2023

Court of Appeals Case No.
22A-CR-2542

Appeal from the Marion Superior
Court

The Honorable James K. Snyder,
Magistrate

Trial Court Cause No.
49D28-2202-F3-3021

Memorandum Decision by Judge Crone
Judges Robb and Brown concur.

Crone, Judge.

Case Summary

- [1] A jury found Anthony K. Wright guilty of level 5 felony intimidation and class A misdemeanor battery. Wright appeals his intimidation conviction, arguing that he did not draw a deadly weapon while communicating a threat to the victim. We affirm.

Facts and Procedural History

- [2] Wright and Jessica Utterback began dating around January 2021, and he later moved into her home. Jessica's daughter Brooklyn moved out of the home in April 2021. Around 1:00 p.m. on December 25, 2021, Brooklyn went to Jessica's home to celebrate Christmas with her mother and her younger brother. Wright was upstairs when Brooklyn arrived, but he later left the home. According to Brooklyn, Jessica "was upset" that Wright left. Tr. Vol. 3 at 111. At 5:08 p.m., Jessica texted Wright, "I will never forget." Ex. Vol. at 4. Wright responded, "I'm on my way back wit my gang so u can't treat mine like u treat ures then I idk what's up for us in the future[.]" *Id.* At 5:25 p.m., Jessica replied, "I asked because I was in my f*****g pj's you f*****g animal[.]" *Id.* Wright responded, "I'ma turture u n ure kids b***h[.]" *Id.*
- [3] Not long afterward, two vehicles carrying seven or eight of Wright's family members "pulled up outside" Jessica's home, and Wright "stepped out of" one of the vehicles. Tr. Vol. 3 at 112. Brooklyn went "outside to speak to him." *Id.* She asked him "if he needed anything from inside the house" because she "didn't want there to be an incident. It was Christmas Day." *Id.* Wright walked

past Brooklyn “and kind of hit [her] shoulder with his shoulder and then, walked directly into the home.” *Id.* at 113. Brooklyn talked with Wright’s family members “for a couple minutes[,]” and then Jessica came “out of the house crying.” *Id.* “[A] few minutes” later, Wright came out of the house with a sheathed machete. *Id.* Brooklyn put the “extremely scared” Jessica behind her, and Wright went up to Brooklyn and started “calling [her] names and hitting [her] in the face and he knocked [her] glasses off.” *Id.* at 114.

- [4] Brooklyn picked up her glasses, and she and Jessica “cower[ed]” against the vehicles that Wright’s “family had come in.” *Id.* at 115. The vehicles drove off. Brooklyn and Jessica then “back[ed] away from [Wright] and end[ed] up backing up into the neighbor’s driveway against the neighbor’s car.” *Id.* Wright followed them, yelled at them, and “unsheathed the machete[.]” *Id.* at 116. Jessica “[got] really scared” and “start[ed] trying to calm him down.” *Id.* Wright grabbed Jessica “by the shirt and [told] her that she need[ed] to take him where he need[ed] to go.” *Id.* He dragged her into the house, and Brooklyn called 911. “[A] few minutes” later, Wright dragged Jessica out of the house, still carrying the machete, and “forc[ed]” her into Brooklyn’s car, and they drove off. *Id.* 117. Jessica returned approximately half an hour later, by which time the police had arrived. Jessica was “very upset” and “crying[,]” and “she had a large wet stain on her pants.” *Id.* at 119, 120.

- [5] The State charged Wright with multiple counts based on this incident, and a jury ultimately found him guilty of level 5 felony intimidation against Jessica and class A misdemeanor battery against Brooklyn. The trial court imposed an

aggregate sentence of three years executed. Wright now appeals his intimidation conviction.

Discussion and Decision

[6] Indiana Code Section 35-45-2-1 provides in pertinent part that a person commits intimidation as a class A misdemeanor when he communicates a threat with the intent that another person be placed in fear that the threat will be carried out; a threat is “an expression, by words or action, of an intention to: (1) unlawfully injure the person threatened or another person, or damage property; (2) unlawfully subject a person to physical confinement or restraint; [or] (3) commit a crime[.]” The offense is a level 5 felony “if[,] **while** committing it, the person draws or uses a deadly weapon[.]” *Id.* (emphasis added).

[7] Wright posits that the threat at issue is his texted threat to torture Jessica and her children, and he argues that because that threat was made long before he wielded the machete, his level 5 felony intimidation conviction cannot stand. But at trial, the focus was on Wright’s demand that Jessica “take him where he need[ed] to go[,.]” which was made very shortly after he “unsheathed the machete” and “grab[bed] her by the shirt[.]” Tr. Vol. 3 at 116; *see also id.* at 220 (State’s closing argument), 229 (Wright’s closing argument).¹ Viewing the evidence and reasonable inferences drawn therefrom in a light most favorable to

¹ The charging information does not specify the threat for which Wright was prosecuted, and Wright did not file a motion to dismiss the intimidation count as unconstitutionally vague.

the conviction, as we must, *Runnells v. State*, 186 N.E.3d 1181, 1184 (Ind. Ct. App. 2022), Wright’s words and actions may be considered expressions of an intention to unlawfully injure Jessica and/or unlawfully subject her to physical confinement or restraint, and those threats were clearly made with the intent that she be placed in fear that the threats would be carried out. Because the threats and the unsheathing of the machete “were part of one continuous transaction[,]” *Hall v. State*, 837 N.E.2d 159, 161 (Ind. Ct. App. 2005), *trans. denied* (2006), we affirm Wright’s conviction for level 5 felony intimidation.

[8] Affirmed.

Robb, J., and Brown, J., concur.