

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT

Joshua Vincent
Marion County Public Defender Agency
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Daylon L. Welliver
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Debra Neal,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 16, 2022

Court of Appeals Case No.
22A-CR-1118

Appeal from the Marion Superior
Court

The Honorable Matthew E.
Symons, Magistrate

Trial Court Cause No.
49D29-1909-F3-36959

Tavitas, Judge.

Case Summary

- [1] Debra Neal appeals her conviction for arson, a Level 4 felony. Neal argues that the State presented insufficient evidence to support her conviction. Finding the evidence sufficient, we affirm.

Issue

- [2] Neal raises one issue on appeal, which we restate as whether the State presented sufficient evidence to support her conviction for arson.

Facts

- [3] On July 16, 2019, Neal lived with her mother, Charlene Hobbs, and brother, Derek Hinton, at her mother's house in Indianapolis. Neal lived in the front bedroom, which has a window facing the street; Hobbs lived in another bedroom; and Hinton lived in the basement. That night, Neal was "very irate" when she learned that Hobbs was selling the house and that Neal would have to find another place to live. Tr. Vol. II p. 126.
- [4] The next day, Neal handed Hobbs a letter and told her, "I don't have a mother. I don't have a family. You're not my mother." *Id.* at 127. The letter reads, "To Whom It May Concern[,], I have disowned family member[s:] Mom, Derek, Tobin, Rhiannon. They are NOT to make any decision re me and my pets. May Your Souls burn in HELL!" State's Ex. 24, Ex. Vol. I p. 96 (capitalization and underlining original). Neal then "stormed off" to her room and said, "[D]on't try to talk to me or come in, because [sic] I'm going to close

my door, and I don't want to talk to anybody. [J]ust leave me alone." Tr. Vol. II p. 128.

[5] Hobbs returned to her room. "A little bit later," Hobbs heard someone calling for help. *Id.* at 129. Hobbs left her room and observed that the hallway was full of smoke emanating from Neal's room. Hobbs was unable to open Neal's door, which opens inward. Hobbs awakened Hinton and called 911. Hinton was also unable to open Neal's door, and both he and Hobbs exited the home.

[6] The Indianapolis Fire Department arrived at the scene. Private David Wheeldon observed two occupants of the home in the front yard, and they informed him that "somebody was in the house, in the front bedroom." *Id.* at 112. Private Wheeldon entered the home and headed toward Neal's bedroom. Neal's door was "barricade[d]," so Private Wheeldon removed the door from its hinges and cleared objects that obstructed his ingress, including a tall mirror and "a pile of debris." *Id.* at 114, 217. Private Wheeldon observed a fire in the southeast corner of the room and a woman on the bed under the window. The firefighters removed the woman through the window and extinguished the fire. The woman was taken to the hospital, as was Hobbs.

[7] After the fire was extinguished, Indianapolis Fire Department Chief Trevor Hanshew investigated the scene and concluded that the fire in Neal's bedroom originated in that room. He concluded that "[t]he fire itself didn't make it outside of the bedroom into the hallway." *Id.* at 234. He also ruled out a

nearby outlet, laptop, and laptop cord as sources of the fire and did not locate any candles, incense, discarded smoking materials, matches, or lighters.

[8] Indianapolis Metropolitan Police Department (“IMPD”) Officer Aaron Carter and United States Bureau of Alcohol, Tobacco, Firearms, and Explosives Special Agent Daniel Shirley also investigated the scene. They discovered fire damage to a previously undamaged curtain on a door in the kitchen. Nearby, on the kitchen countertop, Detective Carter recovered Neal’s letter to her family. Detective Carter and Agent Shirley concluded that the sources of the fire in the bedroom and on the curtain were different because the bedroom fire did not spread from that room.

[9] On September 19, 2019, the State charged Neal with three Counts: Count 1, arson resulting in bodily injury, a Level 3 felony; Count II, arson, a Level 4 felony; and Count III, arson resulting in pecuniary damage of at least five thousand dollars, a Level 4 felony.

[10] The trial court held a jury trial on April 7, 2022. At the trial, Chief Hanshew and Agent Shirley testified that the bedroom and curtain fires were “incendiary,” which describes a class of fire that is not accidental or natural or in which the cause is undetermined. Tr. Vol. II p. 230; Tr. Vol. III p. 8. Chief Hanshew further defined an incendiary fire as a “set fire, [where] someone . . . intentionally ignited a combustible.” Tr. Vol. II p. 230-31. Agent Shirley defined an “incendiary” fire as “where someone intentionally caused the fire or did an act to cause the fire to be there.” Tr. Vol. III p. 8. Chief Hanshew

testified that “the fact that we have two uncommunicated fires within the same structure in and of itself is defined as incendiary because there’s no other explanation for it[.]” Tr. Vol. II p. 235. Agent Shirley testified that, regarding the scene as a whole, “it was the intentional application of an open flame to available combustibles in both areas.” Tr. Vol. III p. 14.

[11] The jury found Neal guilty of Counts II and III and not guilty of Count I. The trial court held a sentencing hearing on April 22, 2022. The trial court entered a judgment of conviction on Count II and sentenced Neal to eight years, with four years executed on home detention and four years suspended to probation.¹ Neal now appeals.

Discussion

[12] Neal argues that the State presented insufficient evidence to support her conviction for arson. We disagree.

[13] 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)). We consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. *Id.* (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). “We will affirm a conviction if there

¹ The trial court dismissed Count III due to double jeopardy concerns.

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)).

[14] Neal was convicted of arson, a Level 4 felony. Indiana Code Section 35-43-1-1(a)(1) provides, “[a] person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages . . . a dwelling of another person without the other person’s consent . . . commits arson, a Level 4 felony.” The State charged Neal with “knowingly” committing arson. Appellant’s App. Vol. II p. 29. Indiana Code Section 35-41-2-2(b) provides, “[a] person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.”

[15] At trial, Hobbs testified that Neal was “very irate” because Hobbs was selling the house and because Neal would need to find somewhere else to live. Tr. Vol. II p. 126. Hobbs further testified that Neal “stormed” off to her bedroom and told her family members not to enter her room. *Id.* at 128. Other witnesses testified that the bedroom fire originated in Neal’s bedroom; that the fire was determined to be intentionally started; and that the bedroom door was barricaded from the inside. Finally, Neal’s letter to her family, which was

found near the fire-damaged curtain, disowned Neal's family, and stated, "May Your Souls burn in HELL!," supplied evidence of Neal's motive to commit arson. State's Ex. 24, Ex. Vol. I p. 96 (capitalization original).

[16] Neal argues that the State failed to prove beyond a reasonable doubt that that she was in her bedroom when the fire started and that she was the woman rescued from the bedroom. We are not persuaded. "[I]t has long been held that circumstantial evidence will support a conviction." *Perry v. State*, 78 N.E.3d 1, 8-9 (Ind. Ct. App. 2017) (quoting *Semenick v. State*, 977 N.E.2d 7, 15 (Ind. Ct. App. 2012), *trans. denied*). Here, the State presented sufficient circumstantial evidence for a jury to find that Neal was motivated to and did set fire to the family home. The jury could reasonably infer that the woman rescued from Neal's bedroom was Neal; Hobbs testified that Neal went into her bedroom and told others to stay out; only Neal, Hinton, and Hobbs were at the house before the fire; and neither Hinton nor Hobbs were rescued from the bedroom window. Neal's arguments merely request us to reweigh the evidence, which we will not do.

[17] Neal further argues that the State failed to prove that the fires were set intentionally because Chief Hanshew and Agent Shirley "agreed that 'incendiary' does not mean intentional."² Appellant's Br. p. 14. We note that the State was not required to prove that Neal intentionally committed arson,

² A more accurate characterization of the testimony is that incendiary does not *necessarily* mean intentional.

but only that she knowingly did so. The significance of Chief Hanshew and Agent Shirley’s classification of the fires as incendiary, moreover, is that doing so ruled out accidental, natural, or undetermined causes of the fires. In conjunction with the State’s other evidence, the jury could reasonably find that Neal knowingly committed arson.³ Accordingly, the State presented sufficient evidence to support Neal’s conviction.

Conclusion

[18] The State presented sufficient evidence to support Neal’s conviction for arson, a Level 4 felony. Accordingly, we affirm.

[19] Affirmed.

Brown, J., and Altice, J., concur.

³ Neal also argues that the investigation into the cause of the fire was flawed because it did not “affirmatively prov[e]” that Neal caused the fire, but rather eliminated other potential causes. Appellant’s Br. p. 16. The State presented testimony regarding the conduct of the investigation to the jury, and we will not reweigh that evidence.