MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Taryn Dowls,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 11, 2023

Court of Appeals Case No. 23A-CR-360

Appeal from the St. Joseph Superior Court

The Honorable Elizabeth C. Hurley, Judge

Trial Court Cause No. 71D08-2111-F6-1039

Memorandum Decision by Judge Bailey
Judges Tavitas and Kenworthy concur.

Bailey, Judge.

Case Summary

[1] Taryn Dowls appeals her convictions for two counts of Battery, as Class A misdemeanors.[1] She presents the sole issue of whether sufficient evidence supports her convictions, contending that the State failed to show that she acted knowingly.[2] We affirm.

Facts and Procedural History

[2] In 2021, Fatima Ruvalcaba ("Ruvalcaba") provided nail services in a home-based salon, with her infant, two-year-old, and four-year-old present. Dowls had been Ruvalcaba's client for approximately one year when a disagreement arose over a cancelled appointment. Dowls posted on Facebook a threat to "spit on" Ruvalcaba and "her kids." (State's Ex. 8.)

[3] During the early morning of August 16, 2021, Ruvalcaba was doing the nails of her cousin, Odette Ruvalcaba, in a back room of her house while Natalie Arcineda ("Arcineda") watched Ruvalcaba's children in a front room. During the appointment, Ruvalcaba received a call from another cousin warning that Dowls was on her way over to Ruvalcaba's house. Arcineda approached Ruvalcaba and asked if she had heard a knock. Ruvalcaba indicated that she had not, and Arcineda returned to the front room to find the two-year-old

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[1] Ind. Code § 35-42-2-1(e)(3).

[2] Although the requisite culpability in the Battery statute is described in the disjunctive, Dowls confines her argument to whether the State established that she acted knowingly.

vomiting, the infant coughing, and the eldest complaining of throat pain. As the three women began discussing what could have happened, "everybody was coughing" and their eyes began to water. (Tr. Vol. II, pg. 16.)

[4] Ruvalcaba called her brother, who suspected that pepper spray had been used in the vicinity. Ruvalcaba then went outside to investigate and found an orange substance on her doorknob, deadbolt lock, and mailbox. The next-door neighbor, Anita Zuber ("Zuber"), reported that she had seen a woman spray something onto Ruvalcaba's door before running to a gold Buick and speeding away. Zuber had received training that made her familiar with pepper spray, and she believed that the orange substance was pepper spray. The women contacted South Bend police, who initiated an investigation.

[5] Officers learned that Dowls drove a gold vehicle and that she had posted some FaceBook messages indicating that "this girl [was] mad" and Dowls had "drenched her stuff in pepper spray." (*Id.* at 63.) When interviewed, Dowls stated that she may have sprayed some pepper spray on the ground to deter a dog that she believed Ruvalcaba was releasing to the outside.

[6] On October 13, 2022, Ruvalcaba was brought to trial before a jury on three counts of battery, as Level 6 felonies. The jury found her guilty of two counts of battery, based upon allegations that she had battered two children under the age of fourteen. The jury did not reach a verdict as to a third count, and the trial court dismissed the charge at the State's request. At the sentencing hearing on January 20, 2023, the trial court entered the convictions as Class A

misdemeanors. Dowls received consecutive sentences of 274 days each, aggregating to 548 days, with 544 of those days suspended to probation. Dowls now appeals.

Discussion and Decision

[7] To support Dowls' convictions for Battery, as Class A misdemeanors, the State was required to show beyond a reasonable doubt that Dowls knowingly or intentionally touched two of Ruvalcaba's children in a rude, insolent, or angry manner, resulting in bodily injury to the children. Ind. Code § 35-42-2-1(c)-(d).

[8] Upon a challenge to the sufficiency of the evidence to support a conviction, we consider only the probative evidence and reasonable inferences supporting the verdict. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We do not reweigh the evidence or judge the credibility of witnesses. *Id*. An appellate court must affirm "if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt." *Id*.

[9] The State presented evidence that Dowls doused Ruvalcaba's doorknob with pepper spray, resulting in injuries to two children inside the residence. Dowls does not contend otherwise. However, she argues that the State was also required to show that she knew the children were home and that a spray would emanate into the home. According to Dowls, she could not have acted

"knowingly" if she did not know that pepper spray "would reach anyone inside." Appellant's Brief at 9.[3]

[10] Pursuant to Indiana Code Section 35-41-2-2(b), "[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." Whether one has "knowledge" is a question of a mental state and, "absent an admission by the defendant, the jury must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant has the requisite knowledge or intent to commit the offense in question." *Pritcher v. State*, 208 N.E.3d 656, 665-66 (Ind. Ct. App. 2023).

[11] Here, the jury heard testimony that Dowls had been Ruvalcaba's nail client, and a disagreement had arisen over a cancelled appointment. There was evidence that Dowls subsequently posted a veiled threat on social media, followed by a more specific social media post indicating that Dowls had used pepper spray against someone who was angry with her. Ruvalcaba received a call warning her that Dowls was headed to Ruvalcaba's house. In close proximity to that call, and while Ruvalcaba's house was occupied, a neighbor

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[3] Although Dowls does not raise the issue of whether a "touching" occurred, the pepper spray used in this case "touched" Arcineda's children sufficiently to constitute battery. While an ordinary odor might not constitute a touching for purposes of the battery statute, the noxious, injurious nature of pepper spray, even if it is not sprayed directly at a person, can constitute a touching. Indeed, the irritant in pepper spray must necessarily make contact with, i.e., touch, the person affected before it can have the effect exhibited by the children in this case: vomiting, watering eyes, and throat pain. *See Merriam-Webster Online, https://www.merriam-webster.com/dictionary/touch* (defining the verb "touch" to include "to cause to be briefly in contact or conjunction with something.").

observed a woman approach Ruvalcaba's door and spray something; the woman then fled in a vehicle matching the description of Dowls's vehicle. Ruvalcaba's middle child began to vomit, and the eldest child complained of throat pain; their eyes were watering. Finally, when Dowls was interviewed, she told police that she may have employed pepper spray to deter a dog. This evidence is sufficient to permit the jury to conclude beyond a reasonable doubt that Dowls touched Ruvalcaba's children in a rude, insolent, or angry manner, resulting in bodily injury to them.

[12] However, Dowls suggests that the State must have proven that she acted with knowledge of specific consequences that would result from her action; that is, pepper spray would disperse through a doorknob and reach children inside a room. But Dowls misapprehends the State's burden of proof. The State's burden was to show that Dowls engaged in the "conduct" knowingly or intentionally. I.C. §§ 35-41-2-2, 35-42-2-1. The State is not required to prove that a defendant has knowledge of specific consequences that would ensue as a result of conduct engaged in knowingly or intentionally. *See e.g., Pritcher*, 208 N.E.3d at 666 (evidence was sufficient to support a murder conviction where the defendant acknowledged striking the victim in the head and that the victim died as a result of head trauma, but the defendant argued that he did not "knowingly" kill the victim).

[13] That said, the evidence of record would permit inferences that Dowls knew Ruvalcaba's residence was occupied and that the spray would make human contact in some manner. Ruvalcaba testified that she worked from home doing

nails and kept her children with her; Dowls had been Ruvalcaba's client for approximately one year. Dowls sprayed a noxious substance – which she identified in a social media post as pepper spray – directly onto a doorknob and immediately fled. In sum, there is sufficient evidence that Dowls acted with the requisite culpability.

Conclusion

[14] Sufficient evidence supports Dowl's convictions for two counts of Battery, as Class A misdemeanors.

[15] Affirmed.

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