

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jordan Douglas Becker,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

July 14, 2023

Court of Appeals Case No.
23A-CR-364

Appeal from the
Lagrange Superior Court

The Honorable
Lisa M. Bowen-Slaven, Judge

Trial Court Cause No.
44D01-2011-F6-316

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

- [1] Jordan Douglas Becker appeals his convictions for Level 6 felony residential entry and Class B misdemeanor battery, arguing the trial court erred in finding that he did not show good cause for failing to timely file a notice of alibi.

Finding no error, we affirm.

Facts and Procedural History

- [2] On November 9, 2020, Chainey Williams was home and getting ready to leave when two people, a man and a woman, quickly approached the front door of his house. When Williams saw them approaching, he shut and locked the door. The man wore a surgical mask over part of his face and carried a bat. Williams recognized the man by his voice as Becker (Williams had known Becker for several years and had been in his wedding). Becker “shoulder-checked” the door, breaking the deadbolt. Tr. Vol. II p. 128. Williams kept the door closed by pushing against it. Eventually, Williams couldn’t keep the door closed any longer and let go. Williams and Becker then struggled over the bat. Becker and the woman fled when a neighbor called the police.
- [3] Later that month, the State charged Becker with Level 6 felony residential entry and Class B misdemeanor battery, and an arrest warrant was issued. Becker was arrested on April 28, 2021, and an initial hearing was held the next day.

The trial court set an omnibus date of June 21. According to statute, Becker had

to file a notice of alibi no later than twenty days before the omnibus date, or June 1. *See* Ind. Code § 35-36-4-1. The June 1 deadline passed without a notice of alibi being filed.

[4] A jury trial was held in October 2022. After the State’s case in chief, defense counsel told the trial court that two witnesses were present and that Becker wanted them to testify on his behalf. Defense counsel said it was his “understanding” that the witnesses would testify that Becker was with them at an unspecified location other than Williams’s house at the time of the crimes. Tr. Vol. II p. 155. Defense counsel said Becker told him about the witnesses on September 12 and that he “attempted to call, [but] wasn’t able to contact either one of them.” *Id.* at 156. The State objected, arguing that Becker hadn’t filed a notice of alibi as required by Section 35-36-4-1. The State acknowledged that defense counsel had emailed it the names and phone numbers “a few weeks ago” but claimed that this was neither sufficient nor timely under the statute. *Id.* Finding that Becker had not shown good cause for failing to timely file a notice of alibi, the trial court excluded the witnesses. Becker then rested his case, and the jury found him guilty as charged.

[5] Becker now appeals.

Discussion and Decision

[6] Becker contends the trial court erred in finding that he did not show good cause for failing to timely file a notice of alibi.¹ A defendant in a felony case must file “a written statement of his intention to offer [an alibi] defense” no later than twenty days before the omnibus date. I.C. § 35-36-4-1. “The notice must include specific information concerning the exact place where the defendant claims to have been on the date stated in the indictment or information.” *Id.* If the defendant fails to meet the deadline and “does not show good cause for his failure, then the court shall exclude evidence offered by the defendant to establish an alibi.” I.C. § 35-36-4-3(b). “The determination of whether a defendant has established good cause is left to the discretion of the trial court.” *Washington v. State*, 840 N.E.2d 873, 880 (Ind. Ct. App. 2006), *trans. denied*.

[7] Under Section 35-36-4-1, Becker had to file a notice of alibi no later than June 1, 2021. Becker, however, **never** filed a notice of alibi. He didn’t raise the issue of alibi until October 2022 during trial (and even then he wasn’t specific about the location). On appeal, Becker appears to argue that he had good cause for not raising the issue of alibi sooner because of “difficulty in locating and contacting the witnesses.” Appellant’s Br. p. 12. But in his brief Becker doesn’t expound on this “difficulty” or explain why he couldn’t have raised the issue anytime before the day of trial. Instead, he pivots to the alleged lack of

¹ Becker also filed a motion to correct error on the alibi issue, which the trial court denied. Becker, however, makes no argument about the motion to correct error on appeal.

prejudice to the State, claiming that “[a]n overnight recess would have provided sufficient time to satisfy the State’s need for information and context about the proffered alibi.” *Id.* at 15. Becker cites no authority for the proposition that the alleged lack of prejudice to the State can establish good cause for his failure to timely file a notice of alibi. The court did not abuse its discretion in determining that Becker failed to show good cause.

[8] Affirmed.

Mathias, J., and Pyle, J., concur.