

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Pierre D. Burdette n/k/a
Mutahir Bey,

Appellant-Defendant,

v.

State of Indiana,

Appellee-Plaintiff.

July 3, 2023

Court of Appeals Case No.
22A-CR-2166

Appeal from the Allen Superior
Court

The Honorable Steven O. Godfrey,
Judge

Trial Court Cause No.
02D04-1910-F2-32

Memorandum Decision by Senior Judge Robb
Judges Crone and Kenworthy concur.

Robb, Senior Judge.

Case Summary and Issue

- [1] Pierre Burdette¹ drove away from police officers during a traffic stop, despite the officers' orders to stop and their use of a spike strip to rupture his tires. He fled for three miles before stopping and being arrested. Officers later determined Burdette's license was suspended.
- [2] Burdette appeals his conviction of Class A misdemeanor operating a motor vehicle while suspended with a prior conviction within the previous ten years,² arguing there is insufficient evidence to sustain the conviction. Concluding the State presented ample evidence, we affirm.

Facts and Procedural History

- [3] In the early morning hours of October 7, 2019, Detective Matthew Foote of the Fort Wayne Police Department ("FWPD") was on patrol, accompanied by another officer. Detective Foote was in uniform but drove an unmarked vehicle. Another detective radioed Detective Foote to advise him to look for a suspicious dark colored Dodge SUV in his area. The detective reported he had watched the driver of the SUV possibly participate in a drug transaction with the driver of another vehicle.

¹ Burdette testified at trial he is known as Mutahir Bey and obtained government-issued identification bearing his new name after the encounter at issue in this case. We will refer to him as Burdette because he uses that name on his Appellant's Brief.

² Ind. Code § 9-24-19-2 (2016).

- [4] Shortly thereafter, Detective Foote saw an SUV matching that description. He noted the SUV's license plate light was not working. Detective Foote followed the SUV and activated his red and blue emergency lights, signaling the driver to stop. The SUV turned a corner and continued to roll forward slowly for three hundred yards. Detective Foote was concerned by the driver's failure to stop because, in his experience, drivers who slow down rather than immediately stopping are using the extra time to hide contraband or obtain a weapon.
- [5] When the SUV finally came to a stop, Detective Foote approached the driver's side, and his partner approached the passenger side. Loud music was playing in the SUV, and Detective Foote noted the car was still in drive. The driver, who was later identified as Burdette, was alone. At first, Burdette was facing the SUV's center console, with his back to the window, and appeared to be "digging" in the SUV's center console while "shielding" the console from the detective's view. Tr. Vol. 3, p. 103.
- [6] Next, Burdette rolled down the window only one inch to speak with Detective Foote. The detective told Burdette to put the car in park and turn it off, but Burdette refused. Burdette also rejected Detective Foote's requests to step out of the vehicle.
- [7] Detective Foote then told Burdette to produce identification, but Burdette declined several times, refusing to even give a name. Burdette also demanded to speak with the detective's supervisor. Burdette eventually put his SUV in

park during the conversation, which lasted for ten minutes. Several other officers arrived during this time.

[8] Eventually, Detective Foote told Burdette he was under arrest for refusing to identify himself during an investigation. Burdette continued to insist he did not have to provide identification, but he produced a “Moorish identification card” and placed it against the window for Detective Foote to read. Tr. Vol. 2, p. 105. The card, which had not been issued by any government entity, bore the name “Mutahir El Maharib Talib Alim Bey,” a date of birth, and an address. *Id.* at 109-110; Tr. Ex. Vol., p. 25. Detective Foote returned to his vehicle to search the Bureau of Motor Vehicles (“BMV”) database. He also asked his supervisor to come to the scene.

[9] Detective Foote could not locate a BMV record that corresponded with the name on Burdette’s card, so he returned to Burdette’s vehicle. At that point, six to eight officers were present, and Detective Foote’s supervisor was talking with Burdette. Burdette refused to provide other identification.

[10] The officers decided to breach the driver’s window on the SUV, unlock the door, and take Burdette into custody. In preparation, an officer put spike strips in front of the SUV. The officers warned Burdette they intended to break the window and gave him a final chance to exit the vehicle, but he refused to comply. When an officer broke the window, Burdette put his SUV in gear and drove away, driving over the spike strips and puncturing three tires in the process. Several officers drove after Burdette, with lights and sirens activated.

[11] Despite his destroyed tires, Burdette accelerated to around eighty miles per hour during the chase, and he ran a stoplight. Eventually, the SUV was too damaged to continue, and Burdette stopped three miles from the spot of the traffic stop. The officers took him into custody, after which they correctly identified him and determined his driver's license was suspended.

[12] The State charged Burdette with Level 6 felony resisting law enforcement by means of a vehicle, Class A misdemeanor operating a motor vehicle while suspended with a prior conviction within the previous ten years, and other charges not relevant to this appeal. A jury determined Burdette was guilty of resisting law enforcement and operating while suspended. The trial court imposed a sentence, and Burdette now appeals only his conviction of operating a motor vehicle with a suspended or revoked license.

Discussion and Decision

[13] Burdette challenges the sufficiency of the evidence supporting his conviction. "In reviewing a claim of insufficient evidence, we will affirm the conviction unless, considering only the evidence and reasonable inferences favorable to the judgment, and neither reweighing the evidence nor judging the credibility of the witnesses, we conclude that no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." *Scruggs v. State*, 737 N.E.2d 385, 386 (Ind. 2000). It is not necessary for the evidence to overcome every reasonable hypothesis of innocence. *Billingsley v. State*, 960 N.E.2d 882, 884 (Ind. Ct. App. 2012).

- [14] To obtain a conviction of Class A misdemeanor operating a motor vehicle while suspended with a prior conviction within the previous ten years as charged, the State was required to prove beyond a reasonable doubt Burdette (1) despite knowing his driver's license had been suspended or revoked (2) operated a motor vehicle (3) on a highway (4) while having a prior conviction within the previous ten years. Ind. Code § 9-24-19-2, Appellant's App. Vol. II, p. 40. Burdette had the burden of proving by a preponderance of the evidence he had a valid driver's license at the time of the offense. *See* Ind. Code § 9-24-19-7(b) (2015) (defendant bears burden of proof of valid driver's license when State prosecutes for operating a motor vehicle with suspended license).
- [15] Burdette does not dispute he drove the SUV during the incident at issue. He instead argues the State failed to prove his license was suspended on the day of the traffic stop. We disagree. At trial, the State presented to the jury, without objection from Burdette, a certified copy of Burdette's BMV record. The record listed his license status as "SUSPENDED – PRIOR as of 10/08/2019 10:02 AM." Tr. Ex. Vol. p. 68. A BMV explanatory document attached to Burdette's record states the phrase "SUSPENDED – PRIOR" is defined as "Driving privileges are suspended, and driver has been convicted of Driving While Suspended within the previous ten (10) years[.]" *Id.* at 75. The record further provides Burdette accrued his prior conviction for driving while suspended in 2015, and his reinstatement eligibility date is "Indefinite." *Id.* at 69. Finally, the record states Burdette has to produce proof of insurance as a prerequisite for reinstatement.

[16] The BMV record and reasonable inferences drawn from the record provide sufficient evidence from which the jury could determine beyond a reasonable doubt that Burdette's driver's license was suspended on October 7, 2019. *See, e.g., Billingsley*, 960 N.E.2d at 886 (affirming conviction of Class A misdemeanor driving with suspended license within ten years of similar infraction; Billingsley argued his BMV record did not specifically identify prior statutory violation; review of record revealed prior proceeding was infraction, which was sufficient proof); *cf. Sansbury v. State*, 96 N.E.3d 587, 594-95 (Ind. Ct. App. 2017) (reversing conviction of driving with suspended license; BMV record showed Sansbury's period of license suspension had ended before traffic stop at issue).

[17] Burdette argues his BMV record shows only that his record was suspended as of October 8, 2019, and not on the prior day during the traffic stop. This argument amounts to a request to reweigh the evidence, and our standard of review requires us to deny Burdette's request.

Conclusion

[18] For the reasons stated above, we affirm the judgment of the trial court.

[19] Affirmed.

Crone, J., and Kenworthy, J., concur.