

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Olubunmi Oyepeju Okanlami,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

February 12, 2024

Court of Appeals Case No.  
23A-CR-1598

Appeal from the  
St. Joseph Superior Court

The Honorable  
Jeffrey L. Sanford, Judge

Trial Court Cause No.  
71D03-2301-F6-108

**Memorandum Decision by Judge Foley**  
Judges Pyle and Tavitas concur.

**Foley, Judge.**

[1] Following a jury trial, Olubunmi Oyepeju Okanlami (“Okanlami”) was convicted of Class A misdemeanor resisting law enforcement<sup>1</sup> and Class C misdemeanor reckless driving.<sup>2</sup> She appeals, challenging the sufficiency of the evidence supporting her conviction for resisting law enforcement. We affirm.

## **Facts and Procedural History**

[2] In January 2023, the State charged Okanlami with resisting law enforcement as a Level 6 felony<sup>3</sup> and reckless driving as a Class C misdemeanor. As for the charge of resisting law enforcement, the State alleged Okanlami “did knowingly flee from . . . a law enforcement officer . . . after [the] officer identified himself by visible or audible means and visibly or audibly ordered [her] to stop and in committing said act [she] used a vehicle.” Appellant’s App. Vol. II p. 10.

[3] A jury trial was held in June 2023. At trial, there was evidence that, on the morning of January 23, 2023, Lieutenant Mario Cavarro (“Lt. Cavarro”) of the St. Joseph County Sheriff’s Department was on patrol in his marked police vehicle. There was snow on the ground, and the road was wet. While Lt. Cavarro was driving eastbound in the left inside lane, he encountered Okanlami driving a blue SUV. Okanlami passed Lt. Cavarro from the right, cutting in front of him and “merg[ing] into the lane . . . at a high rate of speed.” Tr. Vol.

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<sup>1</sup> Ind. Code § 35-44.1-3-1(a)(3).

<sup>2</sup> I.C. § 9-21-8-52(a)(1).

<sup>3</sup> I.C. § 35-44.1-3-1(a)(3), (c)(1)(A)

2 p. 18. She did not use her turn signal. Lt. Cavarro decided to conduct a traffic stop and used his police radio to notify other officers about the stop.

[4] Lt. Cavarro activated the red and blue police lights in his vehicle. When he did so, he saw that Okanlami “accelerated and continued to drive[.]” Lt. Cavarro followed Okanlami. As he followed, he noticed other vehicles slowing and moving over in response to his police lights. He also saw multiple places where Okanlami could have pulled over. Okanlami kept driving and proceeded to turn into an apartment complex, prompting Lt. Cavarro to turn on his siren. Okanlami stopped her vehicle inside the complex, and Lt. Cavarro heard loud music coming from the vehicle. He initiated a “felony stop” by drawing his weapon and ordering Okanlami to turn down her music and turn off the vehicle. *Id.* at 18. Okanlami responded by “dancing” and “sticking her fingers out,” giving Lt. Cavarro “the finger.” *Id.* at 20. She exited the vehicle only “[a]fter several commands and after backup arrived at the scene.” *Id.* A backup officer testified that Okanlami’s “hands c[ame] up through the sunroof as she displayed the middle finger to [them] and [their] commands.” *Id.* at 39–40.

[5] The jury found Okanlami guilty as charged. As for the count of resisting law enforcement, the trial court entered its judgment of conviction as a Class A misdemeanor.<sup>4</sup> Upon the two counts, Okanlami received a fully suspended sentence with a total of 698 days to be served on probation. She now appeals.

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<sup>4</sup> See I.C. § 35-50-2-7(c) (giving a trial court discretion in the entry of judgment upon a Level 6 felony count).

## Discussion and Decision

- [6] Okanlami challenges the sufficiency of the evidence supporting her conviction for resisting law enforcement. “When reviewing a challenge to the sufficiency of evidence supporting a conviction, we neither reweigh the evidence nor assess the credibility of witnesses.” *Fix v. State*, 186 N.E.3d 1134, 1138 (Ind. 2022). Rather, we consider “only the probative evidence and the reasonable inferences” supporting the conviction. *Id.* We reverse only if “no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* (quoting *Jackson v. State*, 50 N.E.3d 767, 770 (Ind. 2016)).
- [7] Okanlami was convicted of resisting law enforcement. A person commits Class A misdemeanor resisting law enforcement if the person “knowingly or intentionally . . . flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer’s siren or emergency lights, identified himself or herself and ordered the person to stop.” Ind. Code § 35-44.1-3-1(a). The offense is elevated to a Level 6 felony if “the person uses a vehicle to commit the offense[.]” I.C. § 35-44.1-3-1(c).
- [8] In challenging the sufficiency of the evidence, Okanlami acknowledges that, “from the time Lt[.] Cavarro activated his lights to the time [she] stopped her vehicle, in real time, a total of fifty seconds passed.” Appellant’s Br. p. 6. However, Okanlami claims there was insufficient evidence she intentionally fled because she activated her left turn signal “[w]ithin thirty-five seconds of Lt[.] Cavarro turning on his lights behind her,” and the apartment complex was

“the first available left-hand exit” off the road. *Id.* at 9. She claims that, because “[i]t took less than one minute of real time” for her to stop her vehicle, and because “she did so by pulling her vehicle off the road at her first available exit,” the evidence shows that “there was no flight” under the circumstances, “and no reasonable jury could find” that she was fleeing from Lt. Cavarro. *Id.*

[9] As to the issue of flight, the Indiana Supreme Court has acknowledged that defense counsel “may argue that a defendant’s actions are reasonable”—and the State “may argue that a defendant’s actions are . . . unreasonable”—but “it’s ultimately for the jury to decide whether there’s evidence of knowing or intentional fleeing under the statute.” *Batchelor v. State*, 119 N.E.3d 550, 563 (Ind. 2019). Here, the jury was presented with evidence that Okanlami accelerated her vehicle when Lt. Cavarro activated his police lights. Further, there was evidence that Lt. Cavarro noticed multiple locations where Okanlami could have pulled over, and he saw other vehicles moving over in response to his police lights. Moreover, in determining whether Okanlami knowingly or intentionally fled from Lt. Cavarro when she kept driving, the jury was free to consider the way Okanlami behaved after she eventually stopped the vehicle. The evidence indicates that she flouted an order to turn down her music, opting to dance in her vehicle and give Lt. Cavarro “the finger.” Tr. Vol. 2 p. 20.

[10] Okanlami’s arguments amount to requests to reweigh the evidence, which we must decline. Upon this record, we conclude that the State presented sufficient evidence to support the conviction for resisting law enforcement.

[11] Affirmed.

Pyle, J., and Tavitas, J., concur.