

## 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.

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## IN THE COURT OF APPEALS OF INDIANA

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Jeremy R. Ross,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

June 8, 2022

Court of Appeals Case No.  
21A-CR-2383

Appeal from the Vigo Superior  
Court

The Honorable John T. Roach,  
Judge

Trial Court Cause No.  
84D03-2003-F4-912

**Mathias, Judge.**

[1] Jeremy R. Ross appeals his conviction for Level 1 felony attempted murder following a jury trial. Ross raises a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction. We affirm.

### **Facts and Procedural History**

[2] On the evening of March 5, 2020, Terre Haute Police Department Officer Daniel Johnson observed a white van pull into a hotel parking lot, sit for a few minutes with no one coming or going from the van, and then pull away. Officer Johnson knew the hotel to be a high drug activity area, and, after the van pulled out of the hotel parking lot, he initiated a traffic stop. The van pulled into a nearby gas station, and Officer Johnson called for the assistance of other officers.

[3] Officer Johnson approached the passenger's side window and observed Ross in the front passenger seat. A female, later identified as Shannon Yocum, was driving the vehicle. Officer Johnson observed an excessive amount of movement from Ross as the officer approached the window, and upon reaching the vehicle he noticed the smell of marijuana emanating from the vehicle. Officer Johnson asked Ross and Yocum to exit the vehicle, and Ross responded by stating, "it's K-2 that you're smelling," which is a synthetic marijuana, and Ross stated, "I'll get it for you," and then he began to turn his back to Officer Johnson. Tr. Vol. 2, p. 122. Officer Johnson directed Ross to stay facing forward and keep his hands where the officer could see them.

[4] At this point, Ross had “a shift in his demeanor” from “cool, calm” to “angry . . . or concerned.” *Id.* Sergeant Adam Loudermilk and Officer Justin Gant arrived on the scene to assist Officer Johnson, with Sergeant Loudermilk approaching Yocum’s window and Officer Gant assisting at Ross’s window. Ross then “bladed his body” from the officers as he reached his left hand into his left jacket pocket, and Officer Gant “reached inside the vehicle with [his] right hand and grabbed” Ross’s left wrist as it was inside his left jacket pocket. Tr. Vol. 3 at 49. Officer Gant instructed Ross to “please remove” his hand to keep “them out where we can see them,” and Officer Gant “started loosening the grip” that he had. *Id.* But, as he did so, he “felt . . . a handgun inside of [Ross’s] left hand.” *Id.* Ross was “pulling his hand out of the pocket with the gun in his hand[.]” *Id.* At 50.

[5] Officer Gant would later testify to the following sequence of events:

Q [by the State:] And so, as you feel that gun being pulled out of the pocket by [Ross], how did you respond?

A I kind of just pushed my upper body through the window that was open in the mini van and grabbed hold of the gun[] with . . . both of my hands.

\* \* \*

Q What happened next?

A We began fighting over . . . control of the firearm. I was trying to pry it from his hands and he was attempting to keep

control of it. He . . . got both hands on the firearm and with it being a smaller firearm, my hands were kind of wrapped around his as we kind of pried back and forth, trying to gain control of the firearm.

\* \* \*

Q At any point in time while this struggle is going on, does he give any commands, or does he yell anything to the driver?

A He began yelling, go, go, go, as he looked over to the driver . . . . [S]he reached up towards the gear shift and attempted to put it into drive. That was the first time I saw Sergeant Loudermilk. He was opening the driver's door and began leaning over Shannon's lap to turn off the keys to the vehicle.

\* \* \*

Q And what is . . . [Ross] trying to do with the gun while . . . Officer Loudermilk is reaching in to shut the vehicle off?

A So when we were initially fighting over the firearm, it was pointed towards the floorboard of the center console area. As Sergeant Loudermilk leaned in over Shannon's lap to turn off the ignition, . . . Ross began forcibly raising his arms to point the firearm at the back of Sergeant Loudermilk's head.

\* \* \*

Q Okay. Does he get the gun up?

A Yes sir.

Q How high does the gun come up?

A Approximately a foot to a foot and a half from the floorboard to where . . . Sergeant Loudermilk's head was at.

Q And when you say to where his head was at, is it pointed at Sergeant Loudermilk's head as he's reaching in?

A Yes sir. Directly at the back of Sergeant Loudermilk's head.

Q Okay. And what happens next? What do you do then?

A We . . . continued fighting over the gun. . . . Ross is able to turn the gun around to a position now where the barrel is pointed at me, and I'm still leaning in through the . . . passenger window . . . .

\* \* \*

Q Okay. And so, do you still have two . . . hands on . . . his hands?

A Yes sir.

Q . . . What does he try . . . after he turns and he gets the gun pointed at you, what do you do?

A Now that the gun was now pointed at me, . . . I was in fear for my life and being . . . shot, so I pulled the barrel of the firearm in close to my ballistic vest, and just put it in as tight as I could to my vest, in case a round was discharged, hopefully my vest would catch it.

\* \* \*

Q And, so, knowing that you couldn't have gotten your finger behind the trigger [because it was a solid trigger], where do you think your finger was . . . ?

A So . . . there's no space between the trigger and the rear of the trigger well, so my pinky would have slid in between the front of the trigger well and the actual trigger.

Q So you've got your finger inside of the trigger well, and . . . you've got your hands on the gun, [Ross] has his hands on the gun, the gun's pointed at you; what do you feel as that part of the struggle is going on?

A I could feel . . . both index fingers of [Ross's] hands begin constricting, in a motion that you would use to fire a firearm to pull on the trigger. . . . [A]t that time he was raising the firearm from my chest towards my neck and face.

Q Did he get the gun raised above where your vest was?

A Yes sir.

Q And what did you do at that point?

A The first time he raised it above my ballistic vest, I was able to . . . get enough weight and leverage to lower it back down towards my vest. The second time he raised it up towards my neck and face, I elbowed him across the face with my left arm, and I believe it stunned him enough where I was able to get the firearm turned back towards the center console area.

*Id.* at 50-55. Officer Gant was then able to get out of the line of fire, and other officers shot and wounded Ross.

- [6] The State charged Ross with numerous offenses, including Level 1 felony attempted murder of Officer Gant. After a trial, a jury found him guilty of that offense, and the trial court entered its judgment of conviction and sentence accordingly. This appeal ensued.

## Discussion and Decision

- [7] Ross's only argument on appeal is whether the State presented sufficient evidence to show that he committed Level 1 felony attempted murder of Officer Gant. As our Supreme Court has made clear:

For sufficiency of the evidence challenges, we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact. On sufficiency challenges, we will neither reweigh evidence nor judge witness credibility. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.

*Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021).

- [8] To show that Ross committed attempted murder, the State needed to show beyond a reasonable doubt that Ross had the specific intent to kill Officer Gant and took a substantial step toward doing so. [Ind. Code §§ 35-41-5-1, 42-1-1\(1\) \(2020\)](#); *Spradlin v. State*, 569 N.E.2d 948, 950 (Ind. 1991). Ross contends that the State failed to prove that he had the specific intent to kill Officer Gant. Ross is incorrect.

[9] The evidence most favorable to the jury's verdict shows that, while Ross and Officer Gant were struggling to control the firearm, Ross forcibly pointed the firearm at Officer Gant's head and neck area and then attempted to pull the trigger. Because Officer Gant had placed a finger in the trigger well, Ross was unable to get his finger inside the trigger well and constricted his finger instead on the trigger guard. Ross's inability to more effectively maneuver his finger into the trigger well and pull the trigger does not negate the substantial step he took and the specific intent his actions demonstrate. The State presented sufficient evidence to show that Ross acted with the specific intent to kill Officer Gant, and we affirm his conviction.

[10] Affirmed.

Brown, J., and Molter, J., concur.