

## 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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Keith M. Strayhorn,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

April 25, 2022

Court of Appeals Case No.  
21A-CR-1528

Appeal from the Marion Superior  
Court

The Honorable David J. Certo,  
Judge

The Honorable David M. Hooper,  
Magistrate

Trial Court Cause No.  
49D19-1910-CM-40816

**Tavitas, Judge.**

## Case Summary

- [1] Keith Strayhorn appeals his conviction for resisting law enforcement, a Class A misdemeanor, following a bench trial. Strayhorn argues that insufficient evidence was introduced to sustain his conviction for resisting law enforcement. A police officer, however, testified that Strayhorn refused to obey the officer's numerous orders, pulled away from the officers, and kept the officers from being able to put his hands behind his back, which resulted in the officers and Strayhorn wrestling to the ground. Additionally, a nearby business's surveillance video footage corroborates the officer's testimony that Strayhorn wrestled with the officers when they were attempting to handcuff him. This evidence is sufficient to sustain Strayhorn's conviction, and we affirm.

## Issue

- [2] Strayhorn raises one issue, which we restate as whether the State presented sufficient evidence to sustain Strayhorn's conviction for resisting law enforcement, a Class A misdemeanor.

## Facts

- [3] On October 20, 2019, Officer Marcus Riley with the Indianapolis Metropolitan Police Department ("IMPD") was dispatched to the intersection of Guion and Industrial roads in response to a 911 call reporting vandalism in progress. Dispatch included a description of the suspect, and Officer Riley arrived in the area in less than one minute. When Officer Riley arrived in the area, he observed a suspect, later identified as Strayhorn, driving away. Officer Riley

passed Strayhorn's vehicle and turned around to initiate a traffic stop, but Strayhorn accelerated to a high rate of speed.

- [4] Officer Riley activated his lights and sirens and followed Strayhorn. After Officer Riley rounded a curve on Guion Road, he could no longer see Strayhorn's vehicle. Shortly thereafter, Officer Riley came to an intersection and located Strayhorn's vehicle in the Indiana Donor Network parking lot.
- [5] Officer Riley initiated a traffic stop of Strayhorn as a result of the dispatch report and the speeding he observed. Strayhorn began to exit his vehicle and was ordered by Officer Riley to remain in his vehicle. Strayhorn refused this order, and surveillance video from the Indiana Donor Network depicts Strayhorn leaving his driver's door open and leaning out of the driver's seat. As a result of Strayhorn's refusal to follow his commands, Officer Riley asked for back up. While waiting for additional units to arrive, instead of approaching the vehicle, Officer Riley continued to give loud, verbal commands to Strayhorn, ordering him to return to his vehicle. Strayhorn continued to refuse Officer Riley's orders and argued with Officer Riley.
- [6] Strayhorn's children were inside of the vehicle, and Officer Riley told Strayhorn to keep them in the vehicle. In response to this, Strayhorn ordered his children out of the vehicle. By this time, other officers arrived and drew their weapons. The officers told the children not to go to Strayhorn, but the children went to him anyway. Strayhorn then put his arm around one of his children so that the child was slightly in front of him.

- [7] The officers decided to remove the children from the scene and take Strayhorn into custody. To this end, the officers separated the children from Strayhorn. The officers then attempted to handcuff Strayhorn, but he pulled away from the officers and prevented the officers' ability to put Strayhorn's hands behind his back, which resulted in the officers and Strayhorn wrestling to the ground. Strayhorn "placed his hands underneath" himself so the officers could not handcuff him. Tr. Vol. II p. 76. Eventually the officers decided to tase and handcuff Strayhorn.
- [8] On October 21, 2019, the State charged Strayhorn with resisting law enforcement, a Class A misdemeanor, and criminal mischief, a Class B misdemeanor. A bench trial was held on July 15, 2021, at which Officer Riley, Officer Dejure Mercer, and Strayhorn testified. At the conclusion of the bench trial, the trial court found Strayhorn guilty of resisting law enforcement, a Class A misdemeanor, and the State dismissed the criminal mischief charge. The trial court sentenced Strayhorn to 355 days suspended to probation. Strayhorn now appeals.

## **Analysis**

- [9] Strayhorn argues that the evidence is insufficient to sustain his conviction for resisting law enforcement, a Class A misdemeanor. Sufficiency of evidence claims "warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility." *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). We consider only the evidence supporting the judgment and any reasonable

inferences drawn from that evidence. *Id.* (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*, 139 S. Ct. 839 (2019)). “We will affirm a conviction if there is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* We affirm the conviction “unless no reasonable factfinder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)).

[10] The offense of resisting law enforcement, a Class A misdemeanor, is governed by Indiana Code Section 35-44.1-3-1(a)(1), which provides in pertinent part: “A person who knowingly or intentionally . . . forcibly resists, obstructs, or interferes with a law enforcement officer . . . while the officer is lawfully engaged in the execution of the officer’s duties . . . commits resisting law enforcement, a Class A misdemeanor[.]” Our Supreme Court has held:

[N]ot every passive—or even active—response to a police officer constitutes the offense of resisting law enforcement, even when that response compels the officer to use force. Instead, a person “forcibly” resists, obstructs, or interferes with a police officer when he or she uses strong, powerful, violent means to impede an officer in the lawful execution of his or her duties. But this should not be understood as requiring an overwhelming or extreme level of force. The element may be satisfied with even a modest exertion of strength, power, or violence. Moreover, the

statute does not require commission of a battery on the officer or actual physical contact—whether initiated by the officer or the defendant. It also contemplates punishment for the active threat of such strength, power, or violence when that threat impedes the officer’s ability to lawfully execute his or her duties.

*Walker v. State*, 998 N.E2d 724, 727 (Ind. 2013).

[11] Strayhorn argues that: (1) the Indiana Donor Network’s surveillance video footage does not match Officer Riley’s testimony; and (2) no evidence of a forcible resistance was presented. Officer Riley testified that the officers attempted to handcuff Strayhorn, but he pulled away from the officers and kept them from being able to put his hands behind his back, which resulted in the officers and Strayhorn wrestling to the ground. Strayhorn “placed his hands underneath” himself so the officers could not handcuff him. Tr. Vol. II p. 76. The Indiana Donor Network’s surveillance video footage depicts Strayhorn wrestling with the arresting officers to the ground. Moreover, Officer Mercer testified at the bench trial and his testimony corroborated Officer Riley’s testimony regarding the arrest. Strayhorn’s actions establish that Strayhorn forcibly resisted.

[12] Strayhorn’s argument amounts to an invitation to reweigh the evidence, which we cannot do when assessing sufficiency of the evidence claims. *See Powell*, 151 N.E.3d at 262. A reasonable fact-finder could reasonably conclude from the officers’ testimony and Indiana Donor Network’s surveillance footage that Strayhorn was guilty of resisting law enforcement, a Class A misdemeanor. *See, e.g., Walker*, 998 N.E.2d at 728-29 (finding that the defendant resisted law

enforcement even when no physical contact was made and that even a modest level of resistance could support a finding of resisting law enforcement); *Johnson v. State*, 833 N.E.2d 516, 519 (Ind. Ct. App. 2005) (holding that the evidence was sufficient to demonstrate resisting law enforcement where the defendant turned away from officers, pushed away with his shoulders, and stiffened up when officers were forcing him into a transport vehicle). Accordingly, we find that the evidence is sufficient to sustain Strayhorn's conviction for resisting law enforcement, a Class A misdemeanor.

### **Conclusion**

[13] The State presented sufficient evidence to sustain Strayhorn's conviction for resisting law enforcement, a Class A misdemeanor. Accordingly, we affirm.

Bradford, C.J., and Crone, J., concur.