

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Chris Patrick Lein, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff,

January 12, 2022

Court of Appeals Case No.
21A-CR-1264

Appeal from the St. Joseph
Superior Court

The Honorable John M.
Marnocha, Judge

Trial Court Cause No.
71D02-1909-F5-215

Robb, Judge.

Case Summary and Issue

- [1] Following a jury trial, Chris Lein was found guilty of criminal recklessness, a Level 6 felony; criminal recklessness, a Class B misdemeanor; and leaving the scene of an accident, a Class B misdemeanor. The trial court sentenced him to twenty-four months to be served in the Indiana Department of Correction (“DOC”) with twelve months suspended to probation. Lein now appeals, raising one issue for our review which we restate as whether there was sufficient evidence to support his convictions for criminal recklessness. Concluding that the State presented sufficient evidence to support Lein’s convictions, we affirm.

Facts and Procedural History

- [2] On September 7, 2021, Jamie Reed was driving with his son when Lein quickly approached Reed’s car from behind in a Honda Odyssey. Lein then attempted to pass Reed but Reed sped up so that Lein could not. However, Lein passed Reed on his second attempt. After Lein got in front of Reed, he “slammed” on his brakes and came to a complete stop. Transcript, Volume II at 36. Reed swerved to the left to avoid hitting Lein. While their vehicles were stopped, the two men exchanged words briefly and Reed pulled away and got in front of Lein. Lein then ran into the back of Reed’s car causing Reed to lose control and drive off the road into a ditch. When Reed exited his vehicle, Lein drove the Odyssey directly at Reed who jumped out of the way. Lein then drove away from the scene.

[3] During these events, off-duty Officer Jason Barthel of the Mishawaka Police Department was driving behind Lein and Reed with an unobstructed view of their vehicles. Officer Barthel recounted a similar version of events as Reed, the only discrepancy being that Officer Barthel believed he saw two collisions prior to Reed driving into the ditch. *See* Tr., Vol. II at 54-56. After the collision, he called dispatch and Officer Jeff Giannuzzi of the Mishawaka Police Department responded to the accident. Based on Lein’s license plate, Officer Giannuzzi was able to determine Lein’s address. When Officer Giannuzzi arrived at Lein’s home, Lein was outside and confirmed that he was the driver of the Odyssey involved in the accident.

[4] The State charged Lein with attempted battery by means of a deadly weapon, a Level 5 felony; criminal recklessness, a Level 6 felony; criminal recklessness, a Class B misdemeanor; and leaving the scene of an accident, a Class B misdemeanor.¹

[5] At Lein’s jury trial, he presented his version of the incident. Lein testified that the day of the incident he was taking the Odyssey out on a “test run” because he had performed mechanical work on the vehicle the day before. *Id.* at 76-77. Lein further testified that while he was driving, the Odyssey went into “limp

¹ Lein was charged with a second count of criminal recklessness because his striking of Reed’s car created a substantial risk of bodily injury to Reed’s son who was also in the car. *See* Appellant’s Appendix, Volume 2 at 5.

mode”² causing his speed to reduce significantly. Lein eventually came upon the vehicle driven by Reed stopped in the middle of the road. Lein testified that he pulled behind the vehicle and Reed was sitting in his car with “his arms moving inside the car.” *Id.* at 81. Lein got out of the Odyssey and was able to get it restarted.

[6] After he got the Odyssey restarted, he attempted to go around Reed’s vehicle, but Reed accelerated and refused to allow him to pass him. Lein testified that after his first pass attempt Reed stopped and “tried to get out of his vehicle” at which point Lein passed him on the road. *See id.* at 82-83. However, the Odyssey died again causing Lein to come to a complete stop allowing Reed to overtake him once more. Lein testified that Reed attempted to throw a cassette tape out of the window at him and “brushed” the Odyssey bumper, *id.* at 84, at which point the Odyssey once again died, causing Reed’s vehicle to “smack[]” the front of the Odyssey, *id.* at 78, 84. Reed’s vehicle then “fishtail[ed]” into the ditch. *Id.* at 84. Lein stated he left the scene because he soiled himself and he was going to call the police “as soon as [he] changed [his] pants” but the police arrived at his home before he could. *Id.* at 95.

[7] The jury found Lein not guilty of battery by means of a deadly weapon but guilty of the three remaining charges. Subsequently, the trial court sentenced

² Lein described “limp mode” as an engine setting which “only allows you so much power in the motor so you don’t do further damage to it.” Tr., Vol. II at 79.

Lein to twenty-four months in the DOC with twelve months suspended to probation. Lein now appeals.

Discussion and Decision

I. Standard of Review

[8] Our standard of reviewing claims of sufficiency of the evidence is well settled. We consider only the probative evidence and reasonable inferences supporting the verdict. *Boggs v. State*, 928 N.E.2d 855, 864 (Ind. Ct. App. 2010), *trans. denied*. We neither reweigh evidence nor judge witness credibility. *Id.* We consider conflicting evidence most favorably to the verdict, and we will affirm the conviction unless no reasonable trier of fact could find the elements of the crime proven beyond a reasonable doubt. *Id.* The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. *Id.*

II. Sufficiency of the Evidence

[9] To convict Lein of criminal recklessness as charged, the State was required to prove beyond a reasonable doubt that Lein “recklessly . . . perform[ed] an act that create[d] a substantial risk of bodily injury to another person[.]”³ Ind. Code

³ As a base offense, criminal recklessness is a Class B misdemeanor. Ind. Code § 35-42-2-2(a). However, when “it is committed while armed with a deadly weapon,” the offense is a Level 6 felony. Ind. Code § 35-42-2-2(b)(1)(A). Lein does not challenge the determination that he was armed with a deadly weapon.

§ 35-42-2-2(a); *see* Appellant’s App., Vol. 2 at 4. Lein argues that there was insufficient evidence to prove that his conduct was reckless.

[10] “A person engages in conduct ‘recklessly’ if he engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct.” Ind. Code § 35-41-2-2(c). It is well-established that evidence that “an accident arose out of the inadvertence, lack of attention, forgetfulness or thoughtlessness of the driver of a vehicle, or from an error of judgment on his part” does not amount to reckless conduct. *Shepherd v. State*, 155 N.E.3d 1227, 1233 (Ind. Ct. App. 2020) (citation omitted), *trans. denied*. Rather, recklessness “is a form of intentional harm-doing in that it is volitional in a wrong direction. Recklessness, however, differs from intentionality in that the actor does not seek to attain the harm; rather he believes that the harm will not occur.” *Id.*

[11] Lein testified that his vehicle malfunctioned. Lein contends that that it was due to the malfunction that “he was having extreme difficulty in controlling his speed . . . [and therefore,] there was insufficient evidence to prove that Lein’s conduct was in ‘plain, conscious and unjustifiable’ disregard” of the harm he could cause. Appellant’s Brief at 10. However, Lein’s argument is nothing more than an invitation to reweigh the evidence and judge witness credibility, which we will not do. *Boggs*, 928 N.E.2d at 864. Further, given Reed’s and Officer Barthel’s testimony, there is evidence in the record from which a jury could determine that Lein’s conduct was reckless. Ind. Code § 35-42-2-2(a).

Accordingly, the State's evidence was sufficient to convict Lein of criminal recklessness.

Conclusion

[12] We conclude there was sufficient evidence presented to support Lein's convictions. Accordingly, we affirm.

[13] Affirmed.

Riley, J., and Molter, J., concur.