

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jasmine Guerrero,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

April 19, 2023

Court of Appeals Case No.
22A-CR-2087

Appeal from the St. Joseph
Superior Court

The Honorable Jeffrey L. Sanford,
Judge

Trial Court Cause No.
71D03-2109-F5-210

Memorandum Decision by Judge Kenworthy
Judges Bradford and Pyle concur.

Kenworthy, Judge.

Case Summary

- [1] Jasmine Guerrero appeals her conviction of Level 5 felony escape.¹ She argues the State failed to present sufficient evidence to sustain her conviction. Concluding the evidence is sufficient, we affirm.

Facts and Procedural History

- [2] In August 2021, Magistrate Andre Gammage of the St. Joseph County Circuit Court presided over a hearing in an unidentified case. Guerrero attended the hearing because she was “involv[ed]” in the case in an unspecified role. *Tr. Vol. 2* at 18. Two officers were in the courtroom: Officer Ernest Nybo and Officer Bruce McMillen.
- [3] During the hearing, Magistrate Gammage found Guerrero in contempt of court. He told Guerrero she “was going into custody.” *Id.* at 27. Guerrero stood up and was “upset about going into custody.” *Id.* at 19. She expressed “her displeasure[.]” *Id.* Magistrate Gammage allowed Guerrero to speak for “about a minute” before he “motioned to the officers or said something to the officers [indicating] . . . it’s time for her to go into custody.” *Id.* at 20, 25. The two officers approached Guerrero, but she turned and moved past them. As Guerrero “broke away” from the officers, *id.* at 21, she pushed Officer McMillen, causing him to fall against a bench.

¹ Ind. Code § 35-44.1-3-4(a) (2014). This statute has recently been amended, and former subsection (a) of the statute is currently set forth in subsection (b). Ind. Code § 35-44.1-3-4(b) (2022).

- [4] Next, Guerrero ran out of the courtroom as Officer Nybo called out, “[S]top her[!]” *Id.* at 48. An officer stationed in the lobby caught Guerrero as she moved toward an exit door. Officer Nybo told Guerrero she was under arrest and ordered her to put her arms behind her back. But Guerrero did not comply. Officer Nybo and his colleague put Guerrero’s arms behind her back and handcuffed her. Officer Nybo then escorted Guerrero to an elevator, holding on to one of her arms. As they waited for the elevator, Guerrero pulled away from the officer, freed one arm from her handcuffs, and fled from the courthouse through an emergency exit. Officers arrested Guerrero another day.
- [5] The State charged Guerrero with Level 5 felony escape and Class A misdemeanor resisting law enforcement. A jury determined Guerrero was guilty of escape but not guilty of resisting law enforcement. The trial court sentenced Guerrero, and she now appeals.

Discussion and Decision

1. Standard of Review

- [6] Guerrero presents one claim, arguing the State failed to provide enough evidence to sustain the jury’s verdict. “When a defendant challenges the sufficiency of the evidence supporting a conviction, ‘we neither reweigh evidence nor judge witness credibility.’” *Cardosi v. State*, 128 N.E.3d 1277, 1283 (Ind. 2019) (quoting *McCallister v. State*, 91 N.E.3d 554, 558 (Ind. 2018)). Instead, “we consider only the evidence and reasonable inferences most favorable to the conviction[.]” *Griffith v. State*, 59 N.E.3d 947, 958 (Ind. 2016).

“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).

2. The Evidence is Sufficient

- [7] To obtain a conviction of Level 5 felony escape, the State was required to prove beyond a reasonable doubt Guerrero (1) intentionally (2) fled from (3) lawful detention. I.C. § 35-44.1-3-4(b). The Indiana General Assembly has defined “lawful detention,” in relevant part, as “arrest . . . or . . . any other detention for law enforcement purposes.” I.C. § 35-31.5-2-186(a) (2014).
- [8] Guerrero argues the State failed to prove she had the “requisite intent” to avoid lawful detention, claiming she was unaware she was being placed in custody when she dodged the officers and left the courtroom. *Appellant’s Br.* at 10.² She further argues she lacked the specific intent to flee when she pulled away from Officer Nybo and ran out of the courthouse after he told her she was under arrest and handcuffed her.
- [9] A person engages in conduct “intentionally” if, when “engag[ing] in the conduct, it is [the person’s] conscious objective to do so.” I.C. § 35-41-2-2(a) (1977). “[B]ecause intent is a mental state, the trier of fact may resort to reasonable inferences based on examination of the surrounding circumstances

² Guerrero’s Appellant’s Brief is misnumbered, omitting a page five. We cite to pdf page numbering to address the discrepancy.

to determine the existence of the requisite intent.” *White v. State*, 772 N.E.2d 408, 413 (Ind. 2002). In other words, “a defendant’s intent can be proved by circumstantial evidence.” *Phipps v. State*, 90 N.E.3d 1190, 1195 (Ind. 2018). On appeal, circumstantial evidence need not overcome every reasonable hypothesis of innocence. *Vehorn v. State*, 717 N.E.2d 869, 876 (Ind. 1999). It is enough if an appellate court concludes the fact-finder can draw from the circumstantial evidence an inference reasonably tending to support the verdict. *Id.*

[10] Here, Magistrate Gammage found Guerrero to be in contempt of court and told her she would be taken into custody. The magistrate later testified Guerrero appeared to understand she was being arrested. Further, after Magistrate Gammage informed Guerrero of his decision, she stood up and spoke for a minute, explaining “her displeasure[.]” *Tr. Vol. 2* at 19. Next, Guerrero pushed past two approaching officers as she left the courtroom, causing one of them to fall. An officer stopped Guerrero in the hall, and Officer Nybo told her she was under arrest. Despite being handcuffed, Guerrero pulled away from the officer and fled from the courthouse.

[11] Guerrero points to evidence in support of her claim she lacked the intent to flee. But she overlooks evidence demonstrating she knew she was being taken into custody during the hearing and fled from Officer Nybo after being handcuffed and told she was under arrest. She is essentially asking us to reweigh the evidence, but our standard of review requires us to deny her request. *See Sutherlin v. State*, 784 N.E.2d 971, 974 (Ind. Ct. App. 2003) (“We must decline [an appellant’s] invitation to reweigh the evidence and assess the credibility of

witnesses” when reviewing the sufficiency of the evidence). The record includes sufficient evidence to support the jury’s verdict that Guerrero committed the offense of escape, beyond a reasonable doubt.

Conclusion

[12] The State presented sufficient evidence to support the jury’s verdict. As a result, we affirm the trial court’s judgment.

[13] Affirmed.

Bradford, J., and Pyle, J., concur.