

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Sauntio Carter,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

June 14, 2023

Court of Appeals Case No.
22A-CR-2805

Appeal from the Marion Superior
Court

The Honorable Matthew E.
Symons, Magistrate

Trial Court Cause No.
49D26-2110-F6-32933

Memorandum Decision by Judge Crone
Judges Robb and Kenworthy concur.

Crone, Judge.

Case Summary

- [1] Sauntio Carter appeals his conviction for resisting law enforcement, a class A misdemeanor. He argues that the State failed to present sufficient evidence. We affirm.

Facts and Procedural History

- [2] On October 26, 2021, while on patrol in his fully marked police vehicle, Indianapolis Metropolitan Police Department Officer Daniel Hiser observed a vehicle, which was traveling westbound on 42nd Street, make a left turn without signaling. The vehicle turned into a parking lot, accelerated through it, and proceeded southbound on Brentwood Drive. Officer Hiser, who was wearing his police uniform, pursued the vehicle and caught up with it to initiate a traffic stop for failure to signal.
- [3] The vehicle stopped on the side of the road as Officer Hiser pulled up behind it and activated his police vehicle's lights. While exiting his police vehicle, Officer Hiser watched the other vehicle's driver move a bag from the back seat into the front passenger seat, climb over the center console, open the passenger door, leave the vehicle, and reach back into the vehicle. Officer Hiser pulled his firearm and ordered the driver, later determined to be Carter, to the ground. Carter began running away. Officer Hiser put away his firearm and began to run after him, repeatedly yelling "get down." Tr. Vol. 2 at 63-64. Carter tripped

and fell on a concrete pad, at which point Officer Hiser apprehended him. Bodycam footage captured the events.

- [4] Later that day, the State charged Carter with level 6 felony dealing in marijuana, class A misdemeanor driving while suspended, class A misdemeanor resisting law enforcement, and class B misdemeanor possession of marijuana. Carter waived his right to trial by jury, and the State eventually dismissed all charges except the class A misdemeanor resisting charge. In November 2022, following a bench trial including testimony by Officer Hiser, the trial court found Carter guilty. Carter received a 365-day sentence, suspended to probation with home detention as a condition of probation. He appeals his conviction.

Discussion and Decision

- [5] Carter contends that the State presented insufficient evidence to support his conviction. “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).

[6] To prove that Carter committed class A misdemeanor resisting law enforcement, the State was required to show that he knowingly or intentionally fled from a law enforcement officer after the officer had, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself and ordered Carter to stop. Ind. Code § 35-44.1-3-1(a). Carter admits that the combination of Officer Hiser's marked police car, police uniform, and activation of emergency lights were sufficient to satisfy the requirement that Officer Hiser identified himself as a police officer. Where the evidence is lacking, argues Carter, is in the required element that Officer Hiser ordered him to stop. While he acknowledges that the word "stop" is not critical, Carter likens his case to *Czobakowsky v. State*, 566 N.E.2d 87 (Ind. Ct. App. 1991), in which the evidence was found insufficient to support the conclusion that an officer ordered the offender to stop.

[7] We have often stated:

A police officer's order to stop need not be limited to an audible order to stop. The order to stop may be given through visual indicators. Evidence of a proper visual order to stop is based on the circumstances surrounding the incident and whether a reasonable person would have known that he or she had been ordered to stop.

Vanzyll v. State, 978 N.E.2d 511, 516 (Ind. Ct. App. 2012) (quoting *Fowler v. State*, 878 N.E.2d 889, 895 (Ind. Ct. App. 2008)). In reversing Czobakowsky's conviction, a panel of this Court held that it is "unreasonable to conclude that the mere approach of an uniformed officer constitutes an order to stop whether

the officer, in his patrol car, approaches a group of people in the street or, while on foot, approaches a group of people on the sidewalk, in the street, in a store or in a restaurant.” *Czobakowsky*, 566 N.E.2d at 89 (emphasis added). However, the *Czobakowsky* panel specifically noted: “[t]his is not to say that the approach of a police officer, coupled with other circumstances such as operating the police vehicle’s signal lamps, would not support the conclusion a visual order to stop had been given.” *Id.*

[8] The evidence here does not demonstrate the “mere approach” of an officer in uniform. Rather, the evidence shows that Officer Hiser pulled up behind Carter’s vehicle, which had just stopped on the side of the road after turning without signaling and accelerating through a parking lot. Officer Hiser activated his fully marked police vehicle’s lights.¹ When, upon exiting his police vehicle, Officer Hiser saw Carter move a bag from the back seat into the front passenger seat, climb over the center console, open the passenger door, leave the vehicle, and reach back into the vehicle, the officer pulled his firearm and ordered Carter to the ground. Bodycam footage showed, and Officer Hiser testified to his belief, that Carter looked at him moments before running away. Officer Hiser continued yelling for Carter to get down. However, Carter kept running, stopping only when he tripped and fell. Based upon the particular circumstances of this incident, a reasonable person would have known that

¹ Carter and the State agree that an observed traffic violation (here turning without signaling) constitutes reasonable suspicion to justify a traffic stop. Appellant’s Br. at 8; Appellee’s Br. at 9.

police had ordered him to stop. And, the trial court could reasonably infer that, realizing that he had been ordered to stop, Carter proceeded to flee from Officer Hiser. The State presented sufficient evidence to support Carter's resisting law enforcement conviction. *Cf. Conley v. State*, 57 N.E.3d 836, 839 (Ind. Ct. App. 2016) (affirming resisting conviction and finding sufficient evidence that officer, without saying a word, ordered offender to stop fleeing; offender, who had just committed theft, ran out of store, passed directly in front of officer's marked car, made eye contact with second officer wearing uniform, driving marked car, and holding up his hand, then dropped a backpack, and ran), *trans. denied*.

[9] Affirmed.

Robb, J., and Kenworthy, J., concur.