

## 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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Jesse Andrew Dobbs,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

November 7, 2022

Court of Appeals Case No.  
22A-CR-1090

Appeal from the Decatur Circuit  
Court

The Honorable Matthew D.  
Bailey, Judge

Trial Court Cause No.  
16D01-1910-F6-1408

**Crone, Judge.**

## Case Summary

- [1] After a jury trial, Jesse Andrew Dobbs was convicted of level 6 felony misdemeanor battery of a public safety official and class A misdemeanor resisting law enforcement. On appeal, Dobbs argues that his convictions cannot stand because the officer at issue was not lawfully engaged in the execution of his official duties. We disagree and therefore affirm.

## Facts and Procedural History

- [2] The relevant facts most favorable to Dobbs's convictions are as follows. On the afternoon of September 29, 2019, Decatur County Sheriff's Deputy Logan Wilder picked up a motorist whose vehicle had broken down on Interstate 74 and drove him back to Greensburg. En route, the deputy saw Dobbs and Leah Renihan "walking down the side of the interstate carrying a battery." Tr. Vol. 2 at 82. After Deputy Wilder dropped off the motorist, he went back to assist Dobbs and Renihan. The deputy saw them walking westbound toward "a Chevy Cobalt that had been parked around the 127-and-a-half-mile marker[.]" *Id.* The deputy pulled up behind them, got out of his vehicle, and "asked them if everything was okay, what was going on." *Id.* at 83. Dobbs told the deputy

that they had broken down the night before in [his brother's] white Chevy truck. It was on the eastbound side of the road. And that they had parked the Cobalt, went across the interstate to work on the truck. The truck had started, and so they both got in the truck and [were] going to try to go down to the Greensburg exit, turn around and come back and get the Cobalt.

*Id.* The truck quickly broke down again, so they decided to remove its battery and carry it back to the Cobalt. Dobbs admitted to driving the truck. *Id.* at 100. Deputy Wilder had seen the truck on the side of the interstate the night before, “and there was nobody with it.” *Id.* at 83. His sergeant had run the license plate, and it “had been expired for several months[.]” *Id.* The deputy noticed that the truck had since been moved approximately “a mile to a mile-and-a-half” and was parked “in the median with the hood partially up[.]” *Id.* at 84.

[3] Deputy Wilder asked Dobbs and Renihan for identification. Dobbs “raised his voice and said why? We didn’t do anything wrong and I’m not going to be f\*\*\*\*d with.” *Id.* The deputy told Dobbs that his department “like[s] for [deputies], when [they] make contact with people, to identify them” and that Dobbs had just admitted to driving “a truck with expired plates and [...] was walking down the side of the interstate, and that [the deputy] had the right to identify him.” *Id.* at 84-85. Dobbs yelled “that he wasn’t going to be f\*\*\*\*d with” and that he would “deal with this when [he got] to [his] car.” *Id.* at 85. Deputy Wilder got back in his vehicle and drove around Dobbs and Renihan toward the Cobalt, which was a couple hundred yards away. The deputy parked his vehicle and asked dispatch to run the Cobalt’s license plate; he was informed that Dobbs was the registered owner, but he did not receive a photo or a description of the owner.

[4] Shortly thereafter, Dobbs and Renihan arrived at the Cobalt, and Deputy Wilder approached them at the driver’s-side rear of the vehicle. Renihan began recording the encounter on her phone’s video camera. Dobbs put the truck’s

battery in the trunk, and the deputy asked him for identification so he could “issue [Dobbs] a citation.” State’s Ex. 1 at 0:00:09. Instead of complying with the deputy’s request, Dobbs tried to wedge his way between the deputy and the side of the Cobalt so he could “get in [the] car.” Tr. Vol. 2 at 139. The deputy put his hands on Dobbs’s biceps, and Dobbs flung the deputies’ arms aside. Deputy Wilder told Dobbs not to touch him. Dobbs told the deputy not to touch him, and he again tried to walk toward the front of the vehicle. Deputy Wilder walked backward as Dobbs walked forward and told him to stop and that he was “not getting in this car.” State’s Ex. 1 at 0:00:21. When the deputy prevented Dobbs from opening the car door, Dobbs angrily shoved his chest and shouted an expletive. Deputy Wilder tackled Dobbs and took him to the ground at the rear of the Cobalt.

- [5] Dobbs landed on his back, and the deputy knelt over his left side and grabbed his arms. Deputy Wilder told Dobbs to stop resisting and to roll over onto his stomach. Dobbs tried to pull away from the deputy and claimed that he could not roll over because he has bad knees. Deputy Wilder repeatedly tried to get Dobbs to roll over, and Dobbs punched him in the face. *Id.* at 0:02:40. After several minutes, “a deputy from Ohio County who happened to be driving past” stopped and helped Deputy Wilder handcuff Dobbs. Tr. Vol. 2 at 90. Deputy Wilder searched Dobbs, put him in his police vehicle, and started to take him to jail, but after talking with his sergeant, they decided “that it may be better if [they] let [Dobbs] go for the night and just let the courts decide how to

handle it.” *Id.* at 91. Dobbs never gave the deputy his name or his driver’s license, and the deputy did not issue him a citation.

- [6] In October 2019, the State charged Dobbs with level 6 felony battery of a public safety official, class A misdemeanor resisting law enforcement, and class C misdemeanor refusal to provide identification information. In April 2022, a jury found him guilty of the first two charges and not guilty of the third. The trial court entered judgment of conviction on the battery as a class A misdemeanor pursuant to Indiana Code Section 35-50-2-7(c) and sentenced Dobbs to concurrent one-year terms, all suspended to probation. This appeal followed.

## **Discussion and Decision**

- [7] Dobbs challenges the sufficiency of the evidence supporting his convictions. “For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the verdict.” *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017). “When confronted with conflicting evidence, we must consider it in a light most favorable to the conviction.” *Girdler v. State*, 932 N.E.2d 769, 771 (Ind. Ct. App. 2010) “We do not assess the credibility of witnesses or reweigh the evidence.” *Love*, 73 N.E.3d at 696. “We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.*
- [8] To convict Dobbs of level 6 felony battery of a public safety official, the State was required to prove beyond a reasonable doubt that he knowingly or intentionally touched a public safety official in a rude, insolent, or angry

manner while the official was engaged in the official's official duty. Ind. Code § 35-42-2-1(e)(2). And to convict Dobbs of class A misdemeanor resisting law enforcement, the State was required to prove beyond a reasonable doubt that he knowingly or intentionally forcibly resisted, obstructed, or interfered with a law enforcement officer while the officer was lawfully engaged in the execution of the officer's duties. Ind. Code § 35-44.1-3-1(a)(1). Dobbs argues,

Both charges require proof beyond a reasonable doubt that the officer was engaged in the execution of the officer's duties. The only basis upon which the State has alleged the officer was engaged in the officer's duties is the contention that the officer was detaining Dobbs for committing an infraction. The State failed to prove that Dobbs had committed an infraction, thus, the State failed to prove the officer was engaged in the execution of the officer's duties.

Appellant's Br. at 12.

[9] Dobbs cites no authority for the proposition that the State was required to establish at trial that he actually committed an infraction, for which the burden of proof is "only a preponderance of the evidence." *Rosenbaum v. State*, 930 N.E.2d 72, 74 (Ind. Ct. App. 2010), *trans. denied*. Regardless, Indiana Code Section 34-28-5-3(a) provides,

Whenever a law enforcement officer believes in good faith that a person has committed an infraction or ordinance violation, the law enforcement officer may detain that person for a time sufficient to:

- (1) inform the person of the allegation;
- (2) obtain the person's:
  - (A) name, address, and date of birth; or
  - (B) driver's license, if in the person's possession; and
- (3) allow the person to execute a notice to appear.

And Indiana Code Section 9-18.1-11-2(c) provides that a person who operates a motor vehicle with an expired license plate commits a class C infraction.

[10] Dobbs admitted to Deputy Wilder that he drove his brother's truck, and the deputy knew that the truck had an expired license plate; at that point, the deputy had ample justification to detain Dobbs and ask for his identification, and he told Dobbs why he was doing so. Tr. Vol. 2 at 85. Detaining Dobbs and asking for his identification was part of Deputy Wilder's official duty to investigate Dobbs's driving of a truck with an expired license plate.<sup>1</sup> Instead of complying with the deputy's request, however, Dobbs angrily shoved him. At that point, Deputy Wilder had probable cause to arrest Dobbs for level 6 felony battery. *See* Ind. Code § 35-33-1-1(a)(2) (providing that a law enforcement officer may arrest a person when the officer has probable cause to believe that the person has committed a felony). And Dobbs committed resisting law

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<sup>1</sup> That Deputy Wilder ultimately did not cite Dobbs for the infraction is irrelevant, as is Dobbs's acquittal on the charge of refusal to provide identification information.

enforcement by forcibly resisting that lawful arrest.<sup>2</sup> Based on the foregoing, we affirm his convictions.

[11] Affirmed.

May, J., and Weissmann, J., concur.

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<sup>2</sup> Indiana Code Section 35-41-3-2(i) provides that “[a] person is justified in using reasonable force against a public servant if the person reasonably believes that the force is necessary to ... protect the person ... from what the person reasonably believes to be the imminent use of unlawful force[.]” Dobbs suggests that he reasonably believed that Deputy Wilder’s use of force was unlawful, but this is based on the false premise that the deputy had no basis to detain him and ask for his identification, and it ignores that his angry shoving of the deputy furnished probable cause for his arrest. We further note that Indiana Code Section 9-18.1-11-2(c) does not have a scienter requirement, so whether Dobbs knew that the truck’s license plate was expired when he drove the truck is irrelevant. Dobbs does not specifically argue that the kind and amount of force that the deputy used to effect the arrest was unlawful.