MEMORANDUM DECISION

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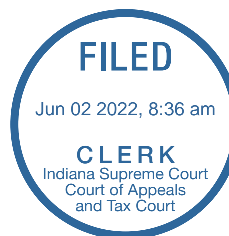

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IN THE COURT OF APPEALS OF INDIANA

Crystal L. Obrie,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 2, 2022

Court of Appeals Case No. 21A-CR-2710

Appeal from the Elkhart Superior Court

The Honorable Gretchen S. Lund, Judge

Trial Court Cause No. 20D04-2003-F6-363

Weissmann, Judge.

[1] Crystal Obrie purposely drove into her neighbor's vehicle twice before driving over the curb toward two of her neighbors. She appeals her dual convictions for Level 6 felony criminal recklessness, arguing that the evidence was insufficient to show that she used her car as a deadly weapon. We disagree and affirm the court below.

Facts

[2] Deanna Suggs lived across the parking lot from Obrie in the same apartment complex. Suggs hit Obrie's car on Valentine's Day 2020 but never paid for the damage. About a month later, Obrie spotted Suggs as she pulled into the lot and confronted Suggs about payment. Suggs, who was with her 3-year-old son, told Obrie she would not pay without a mechanic's estimate.

[3] An angry Obrie drove her car into Suggs' car, forcing Suggs and her son to move out of the way. Suggs, now also enraged, told Obrie to hit her car again. Obrie complied. Suggs then challenged Obrie to a fight. The two were scuffling when Stacey Hicks, Suggs' next-door neighbor, returned home with her 9-year-old daughter.

[4] The fight ended, and Obrie climbed back into her vehicle. Instead of parking, though, Obrie drove her car over the curb and toward Suggs. By now, Hicks and her daughter were standing with Suggs in front of their apartments. Obrie backed up and approached again, this time "full-fledged." Tr. Vol. II, p. 109. Suggs testified that Obrie "started coming and trying to hit [Hicks'] daughter, and then [Hicks] herself." *Id.* at 83. Obrie's car hit the brick divider between

Suggs' and Hicks' front porches. Hicks testified, "The only thing [that] stopped her was the brick . . . or she would've been in my living room." *Id.* at 109.

[5] Obrie was arrested and charged with two counts of Level 6 felony criminal recklessness, one for her actions against Suggs and one for her actions against Hicks. She was also charged with one count of disorderly conduct, a Class B misdemeanor. A jury found Obrie guilty of all counts, and the trial court sentenced her to an aggregate of one year suspended to probation. Obrie now appeals.

Discussion and Decision

[6] Obrie argues there was insufficient evidence to support her two convictions for Level 6 felony criminal recklessness because the State failed to prove beyond a reasonable doubt that her vehicle was a deadly weapon as required by statute. When reviewing the sufficiency of the evidence following a jury verdict, we are "markedly deferential to the outcome below." *Bowman v. State*, 51 N.E.3d 1174, 1181 (Ind. 2016). We neither reweigh evidence nor re-examine witness credibility. *Id.* We consider only the "probative evidence and reasonable inferences *supporting* the verdict." *Id.* We affirm unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." *Id.* (quoting *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007)).

[7] "A person who recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another person commits criminal recklessness," a Class B misdemeanor. Ind. Code § 35-42-2-2(a). The offense

becomes a Level 6 felony when committed while armed with a deadly weapon. Ind. Code § 35-42-2-2(b)(1)(A).

[8] A "deadly weapon" includes equipment that is readily capable of causing serious bodily injury in the manner it is used, could ordinarily be used, or is intended to be used. Ind. Code § 35-31.5-2-86(a)(2). To determine whether an object is a deadly weapon by these terms, we apply the "usage test." *Miller v. State*, 500 N.E.2d 193, 196 (Ind. 1986). "It is not the originally intended use of the object which is important, but the manner in which it is used during the crime." *Id.*

> Under this standard, we have viewed the actual ability of the object to function as a weapon capable of inflicting serious bodily injury under the factual circumstances of the case. It does not matter if actual injuries were sustained by the crime victim, provided the defendant had the apparent ability to injure the victim seriously through his use of the object during the crime.

Id. at 196-97 (cleaned up). Pursuant to this test, Indiana courts have found screwdrivers, unidentified weapons resembling brass knuckles, stun guns of unknown voltage, and vehicles to be deadly weapons.[1] If different conclusions

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[1] *Miller*, 500 N.E.2d at 196 (finding jury determination that screwdriver was a deadly weapon to be reasonable given eyewitness testimony it was used in such a manner); *Gleason v. State*, 965 N.E.2d 702, 708 (Ind. Ct. App. 2012) (finding object resembling a weapon that was used like a weapon to inflict bodily injury to be a deadly weapon); *Grogg v. State*, 156 N.E.3d at 744, 750 (Ind. Ct. App. 2020) (finding taser or stun gun with the apparent ability to cause serious bodily injury that was used in a manner that put victim in fear for her life to be a deadly weapon); *Johnson v. State*, 455 N.E.2d 932, 936 (Ind. 1983) (finding vehicle to be a deadly weapon where defendant used it to follow victims and deliberately steered into them wearing a "mean look," then fled the scene), *abrogated on other grounds by Powell v. State*, 151 N.E.3d 256, 263 n.5 (Ind. 2020).

can be reached as to whether a weapon is deadly, it is a question of fact for the jury. *Id.* at 197.

[9] Obrie concedes that a vehicle can be a deadly weapon under "appropriate circumstances" but argues that those circumstances were not present in her case. Appellant's Br., p. 11 (citing *DeWhitt v. State*, 829 N.E.2d 1055, 1064 (Ind. Ct. App. 2005)). We are not convinced. After intentionally hitting Suggs' vehicle twice, Obrie purposely drove over the curb toward Suggs and, later, Hicks. Obrie then rammed her vehicle into the brick porch divider near where both women stood. Suggs testified that Obrie specifically targeted Hicks, and Hicks testified that Obrie was driving "full-fledged" at them. Tr. Vol. II, p. 109. Obrie's conduct was comparable to the defendant's in *DeWhitt*, where this Court observed that the jury could reasonably conclude the defendant operated his vehicle as a deadly weapon because he "ramm[ed] a large vehicle into a gate at a considerable rate of speed and [struck someone] in the leg. . . ." 829 N.E.2d at 1064 n.6.

[10] Obrie argues that her driving put neither Suggs nor Hicks at substantial risk of bodily harm, first because neither was injured. We remind Obrie that "[i]t does not matter if actual injuries were sustained by the crime victim, provided the defendant had the apparent ability to injure the victim seriously through his use of the object during the crime." *Miller v. State*, 500 N.E.2d at 196-97. Obrie had that apparent ability when she drove her vehicle over the curb toward Suggs and Hicks.

[11] Second, Obrie claims her driving "was not overly uncontrolled or at an excessive speed." Appellant's Br., p. 12 (citing *Henson v. State*, 86 N.E.3d 432, 440 (Ind. Ct. App. 2017) (finding defendant intended to use car as a deadly weapon where he drove over curb and straight into a gas pump at about 60 miles per hour). Obrie again points to the lack of physical injury and observes that everyone was able to avoid her vehicle. She concludes that neither Suggs nor Hicks was at "substantial risk of death." Appellant's Br., p. 13.

[12] But risk of death is not the only relevant inquiry. Rather, we consider whether Obrie's operation of the vehicle rendered it "readily capable of causing serious bodily injury." Ind. Code § 35-31.5-2-86(a)(2). "Serious bodily injury" means bodily injury that creates a substantial risk of death *or* that causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of a bodily member or organ, or loss of a fetus." Ind. Code § 35-31.5-2-292. A car driven purposely onto the sidewalk toward pedestrians is certainly "readily capable" of doing any of those things, regardless of whether it was driven "overly uncontrolled or at an excessive speed." To the extent that Obrie argues a different conclusion could be reached, she asks us to step into the shoes of the jury, which we will not do. *See Miller*, 500 N.E.2d at 197.

[13] Obrie has not borne her burden of showing that the evidence was insufficient to support her Level 6 felony convictions. Accordingly, the trial court is affirmed.

Robb, J., and Pyle, J., concur.