

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Joseph L. Randall,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 29, 2022

Court of Appeals Case No.  
22A-CR-480

Appeal from the Jay Superior  
Court

The Honorable Gail M. Dues,  
Judge

Trial Court Cause No.  
38D01-2106-F6-114

**Brown, Judge.**

[1] Joseph L. Randall appeals his conviction for possession of marijuana as a class B misdemeanor. He claims the State did not present sufficient evidence to establish venue in Jay County. We affirm.

### ***Facts and Procedural History***

[2] The State charged Randall with Count I, neglect of a dependent as a level 6 felony, and Count II, possession of marijuana as a class B misdemeanor in the Jay Superior Court.<sup>1</sup> On February 18, 2022, the court held a bench trial. G.B. testified that he was thirteen years old and lived in Ridgeville with his brothers and mother Valerie. He indicated that M.R. was one of his brothers and was eight years old and that Randall was M.R.’s father, used to be his stepfather, and lived in Dunkirk. G.B. testified that, during the weekend of May 30, 2021, he was at his mother’s house with M.R. G.B. testified that M.R. “was digging through his bag and I saw what . . . I thought was pot.” Transcript Volume II at 10. He indicated the bag was the same backpack that M.R. took to school. G.B. testified that he took the item, depicted in State’s Exhibit 1, from M.R. and gave it to his mother. He said the item was in M.R.’s art box. When asked if M.R. had been at Randall’s house recently, G.B. replied affirmatively, and when asked how many days he had been back at their mother’s house, he answered “I believe it was from that weekend.” *Id.* at 13. When asked “[s]o he

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<sup>1</sup> The State filed the charging information on June 16, 2021, and amended information on February 10, 2022. Count II alleged that, on or about May 27, 2021, in Jay County, Randall did knowingly or intentionally possess marijuana.

was at [Randall's] house sometime during the week," G.B. said "[y]es," and when asked "[a]nd then came back to mom's house that weekend," he answered "[y]es." *Id.* On cross-examination, Randall's counsel asked "[w]hen your brother would come back to your house for—after visits with Mr. Randall, were there times Mr. Randall delivered him to your house," and G.B. answered "[y]es." *Id.* at 14.

[3] Valerie testified that, on Sunday, May 30, 2021, G.B. gave her two bags of marijuana and a blue grinder and that the grinder was "a device used to make marijuana smaller so that you are able to ingest it." *Id.* at 17. She indicated that she went to church that morning, saw Randall, and had a conversation with him. Valerie testified that she mentioned the items that were found to Randall and he admitted that he had misplaced the marijuana. She stated that, when she told him that she had found a grinder, he asked her if it was a blue one, and she answered affirmatively. She indicated that she eventually told the police. When asked "[w]hen was [M.R.] last at [Randall's]," she replied "[i]t would've been the Thursday prior to when we found it," which was May 27, 2021. *Id.* at 20. She testified that Randall lived in Dunkirk in a two-story house and there were three apartments in the building. The State presented a photograph, and Valerie indicated the photograph depicted Randall's house. The following exchange occurred:

Q. Is this where [M.R.] stays with him . . .

A. . . . Yes . . .

Q. When he's with [Randall]? Okay. And was [Randall] exercising parenting time that week?

A. Yes.

Q. Is that house in Jay County, Indiana?

A. Yes it is.

*Id.* at 21. On cross-examination, Valarie indicated that her house was in Randolph County.

[4] In closing, Randall's counsel argued in part:

I think based on the evidence presented today there are several issues . . . for the Court to consider. First of which is venue and this all ties together in one respect which is there's been no evidence shown as to how or by whom the marijuana came into this tote that went into the backpack and ended up in Randolph County, Indiana. We also heard evidence from [G.B.] that at times [Randall] would deliver [M.R.] back to . . . the Randolph County home of the mother. And because there is no evidence in this record about how the marijuana got in that tote that got in the backpack that got in Randolph County there's no evidence that any (inaudible) in Jay County, Indiana that's been presented.

*Id.* at 25.

[5] The trial court found Randall not guilty of neglect of a dependent and guilty of possession of marijuana as a class B misdemeanor. The court sentenced Randall to 180 days with 150 days suspended to probation.

## *Discussion*

- [6] Randall asserts “there is no evidence of probative value suggesting that [he] knowingly possessed marijuana within Jay County on May 27, 2021,” and “[a] guilty verdict could only be based on speculation with regard to the issue of venue.” Appellant’s Brief at 10. The State argues it was reasonable for the court “to infer that M.R. retrieved the marijuana—that Randall admitted was his—while he was at Randall’s residence in Jay County.” Appellee’s Brief at 7.
- [7] Ind. Code § 35-32-2-1(a) provides that criminal actions shall be tried in the county where the offense was committed except as otherwise provided by law. Venue is not an element of the offense. *Smith v. State*, 835 N.E.2d 1072, 1074 (Ind. Ct. App. 2005) (citing *Alkhalidi v. State*, 753 N.E.2d 625, 628 (Ind. 2001)). The State is required to prove venue by a preponderance of the evidence rather than beyond a reasonable doubt. *Id.* We treat a claim of insufficient evidence of venue in the same manner as other claims of insufficient evidence. *Id.* We neither reweigh the evidence nor assess witness credibility and look only to the evidence and the reasonable inferences drawn therefrom which support the conclusion of requisite venue. *Id.* “[V]enue typically turns on an issue of fact, i.e., where certain acts occurred.” *Alkhalidi*, 753 N.E.2d at 628. The State may establish proper venue by circumstantial evidence. *Eckstein v. State*, 839 N.E.2d 232, 233 (Ind. Ct. App. 2005). “Thus, the State meets its burden of establishing venue if the facts and circumstances permit the trier of fact to infer that the crime occurred in the given county.” *Id.*

[8] The record reveals the State presented evidence that Randall lived in a house which was located in Jay County. It elicited testimony that, on Sunday, May 30, 2021, G.B. saw marijuana in an art box in M.R.'s backpack and gave it to his mother, Valerie. Valerie indicated that she had a conversation with Randall that morning and he admitted that he had misplaced the marijuana. Valerie further indicated that M.R. was "last at [Randall's]" on May 27, 2021, and that Randall had been exercising parenting time that week. Transcript Volume II at 20. She described Randall's house, and when shown a photograph of Randall's house and asked "[i]s this where [M.R.] stays" when he is with Randall, she answered affirmatively. *Id.* at 21. She testified Randall's house is in Jay County. We conclude that the trial court as the trier of fact was able to consider the evidence and reasonably infer that Randall's offense occurred in Jay County and that the State proved venue by a preponderance of the evidence.

[9] For the foregoing reasons, we affirm Randall's conviction.

[10] Affirmed.

Altice, J., and Tavitas, J., concur.