

MEMORANDUM DECISION



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IN THE
COURT OF APPEALS OF INDIANA

Mecca Smith,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 30, 2023

Court of Appeals Case No.
23A-CR-897

Appeal from the Marion Superior
Court

The Honorable Shatrese Flowers,
Judge

The Honorable James Snyder,
Magistrate

Trial Court Cause No.
49D28-2210-F4-28254

Memorandum Decision by Judge Bradford
Judges Vaidik and Brown concur.

Bradford, Judge.

Case Summary

- [1] In October of 2022, Indianapolis Metropolitan Police officers responded to a report of multiple persons flashing or pointing guns at an apartment complex basketball court. When the first officer arrived, the group dispersed on foot. The officer observed a person in a green hoodie carrying a firearm running away with Mecca Smith. Another officer who arrived encountered Smith, this time by himself, carrying a rifle. When the officer approached, Smith threw his rifle into some bushes and ran, and the officer ordered him to get on the ground and show his hands. Police apprehended Smith after he went to the ground, a jury ultimately found him guilty of Class A misdemeanor resisting law enforcement, and the trial court sentenced him to 330 days of incarceration. Smith contends that the State produced insufficient evidence to sustain his conviction. We affirm.

Facts and Procedural History

- [2] On October 15, 2022, Indianapolis Metropolitan Police Officer Ryan Lundy received a report that multiple juveniles or teenagers were flashing or pointing guns on the basketball court of the Rowney Terrace apartments. Officer Lundy was aware that multiple persons had been shot in Rowney Terrace in the past. Officer Lundy entered the complex through the north entrance, and as he pulled up to the basketball court, he saw approximately fifteen to thirty persons on the court, most of whom “took off running” toward the south. Tr. Vol. III p. 89. As the individuals ran, Officer Lundy noticed one person who was

wearing a green hoodie was not moving his right arm as he ran. In Officer Lundy's experience, this lack of movement in one arm was an indication that the individual was carrying something, and he thought he had seen a gun in this person's hand. Officer Lundy knew that multiple officers were responding and called over the radio that he believed an individual running from him and wearing a green hoodie had a gun.

[3] Officer Daniel Beasley had also been dispatched to respond to the report of juveniles with firearms on the basketball court. Officer Beasley was wearing his full police uniform. Officer Beasley saw Officer Lundy going north toward the basketball court but stayed a little farther south, parking his patrol car. From this location, Officer Beasley heard Officer Lundy's report regarding an individual in a green hoodie carrying a firearm. As Officer Beasley looked back at the basketball court, he saw an individual in a green hoodie running toward him along the tree line on the south end of the property with another individual, who was later identified as Smith. Officer Beasley began to track the two individuals by also running south through the complex, parallel to them, trying to get ahead of them. Officer Beasley saw the duo through the complex, and as he looped back around, he was able to see them again. Officer Beasley could tell the individual in the green hoodie had a firearm but could not tell if Smith did. When Officer Beasley saw Smith again, he drew his firearm and ran further north to engage.

[4] Officer Beasley encountered Smith, standing still, holding an AR-style rifle. As Officer Beasley approached, Smith took three or four steps and then threw the

rifle in the bushes. Officer Beasley commanded Smith to show him his hands and to get on the ground. Smith ran, and Officer Beasley chased him until he went to the ground, allowing Officer Beasley to apprehend him.

- [5] On October 18, 2022, the State charged Smith with Level 4 felony unlawful possession of a firearm by a serious violent felon and Class A misdemeanor resisting law enforcement. A jury found Smith guilty of resisting law enforcement, and, on March 29, 2023, the trial court sentenced him to 330 days of incarceration.

Discussion and Decision

- [6] Smith contends that the State failed to produce sufficient evidence to sustain his conviction for Class A misdemeanor resisting law enforcement. “When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict.” *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We will neither assess witness credibility nor “weigh the evidence to determine whether it is sufficient to support a conviction.” *Id.* When presented with conflicting evidence, we “must consider it most favorably to the trial court’s ruling.” *Id.* We will affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* “It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence.” *Id.* “The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Id.*

[7] A person who “flees from a law enforcement officer after the officer has by visible or audible means, including the operation of the law enforcement officer’s siren or emergency lights, identified himself or herself and ordered the person to stop” commits Class A misdemeanor resisting law enforcement. Ind. Code § 35-44.1-3-1(a)(3). Because “flight” can manifest differently and the General Assembly has provided no definition for “flee,” “it is for the jury to decide whether there is evidence of intentional fleeing.” *Batchelor v. State*, 119 N.E.3d 550, 560 (Ind. 2019). Because intent is a mental state, it can be established by considering “the behavior of the relevant actor, the surrounding circumstances, and the reasonable inferences to be drawn from them.” *Davis v. State*, 791 N.E.2d 266, 270 (Ind. Ct. App. 2003), *trans. denied*. Smith does not dispute that he ran from the officers. Smith argues, however, that there was insufficient evidence to establish that he saw, heard, and understood Officer Beasley’s commands to stop and that officers did not have reasonable suspicion to stop him in any event.

[8] When the uniformed Officer Beasley encountered Smith, who was not with the person in the green hoodie anymore, he yelled “Hey! Let me see your hands! Get on the ground! Get on the ground right now!” Ex. 7 at 4:13–4:15. Instead of immediately getting on the ground, Smith threw his firearm into some bushes and ran away from Officer Beasley. There is more than enough evidence to support a finding that Smith knowingly and intentionally fled from law enforcement after being told to stop.

[9] The record also supports a conclusion that the officers had reasonable suspicion of criminal activity. In terms of resisting arrest by flight, the “statutory element ‘after the officer has ... ordered the person to stop’ must be understood to require that such order to stop rest on probable cause or reasonable suspicion, that is, specific, articulable facts that would lead the officer to reasonably suspect that criminal activity is afoot.” *Gaddie v. State*, 10 N.E.3d 1249, 1255 (Ind. 2014) (quoting Ind. Code § 35-44.1-3-1(a)(3); ellipsis in *Gaddie*). Of relevance here, the United States Supreme Court has concluded that reasonable suspicion to make an investigatory stop exists if a suspect in a high crime area engages in unprovoked flight in response to noticing law enforcement officers. *Illinois v. Wardlow*, 528 U.S. 119, 125 (2000). “[N]ervous, evasive behavior is a pertinent factor in determining reasonable suspicion. Headlong flight—wherever it occurs—is the consummate act of evasion: it is not necessarily indicative of wrongdoing, but it is certainly suggestive of such.” *Id.* at 124 (citations omitted).

[10] Smith does not dispute that the encounter with the police occurred in an area known for criminal activity and that he fled when seen by Officer Beasley. This is sufficient to support reasonable suspicion for an investigatory stop. *See id.* at 125. There is more, however: police were not simply passing by—they were responding to a report of persons showing or flashing firearms on the basketball court, which is where Smith was when he began his flight with the person in the green hoodie. Finally, Officer Beasley saw Smith throw his firearm into some bushes when he encountered him, supporting an inference that Smith was

possessing it illegally. Under the circumstances, Officer Beasley’s suspicion was reasonable, justifying his commands to Smith. *See, e.g., Burkes v. State*, 842 N.E.2d 426, 432 (Ind. Ct. App. 2006) (where anonymous tip in addition to suspect running when ordered to “freeze” was sufficient to establish reasonable suspicion), *trans. denied*. We conclude that Smith’s resisting-law-enforcement conviction was supported by sufficient evidence.

[11] We affirm the judgment of the trial court.

Vaidik, J., and Brown, J., concur.