

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Courtney Lamar Parker,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

May 17, 2022

Court of Appeals Case No.
21A-CR-2249

Appeal from the Lake Superior
Court

The Honorable Salvador Vasquez,
Judge

Trial Court Cause No.
45G01-1712-F4-30

Crone, Judge.

Case Summary

- [1] Courtney Lamar Parker appeals his conviction, following a jury trial, for level 5 felony stalking. He contends that the State presented insufficient evidence to support his conviction. Finding the evidence sufficient, we affirm.

Facts and Procedural History

- [2] The facts most favorable to Parker's conviction show that in September 2010, Parker and Patricia Torres began dating and they subsequently had a child together. Their relationship began to deteriorate, and they eventually separated. In April 2017, Patricia moved in with her sister, Melisa Torres, and Melisa's fiancé, Alex Vasquez. Melisa lived in Hammond and rented a house that belonged to her uncle. After Patricia moved in, the housemates began having "trouble" with Parker. Tr. Vol. 7 at 101.
- [3] The first incident occurred in early April. Parker attempted to call Patricia multiple times on her cell phone. Early the following morning, Melisa was awakened sometime between 3:00 and 3:30 a.m. by loud pounding on the back door and someone "screaming her sister's name." *Id.* at 101. When Melisa walked downstairs, she discovered Parker in an enclosed mudroom by her back door, and she "freaked out" and called the police. *Id.* at 101-02. While Melisa was on the phone with the police, Parker took off in Patricia's car.
- [4] The next weekend, while Patricia was in her bedroom watching a movie, Parker showed up at the house and knocked on the front door. Patricia was staying in a downstairs bedroom and could see Parker through a "crack" in the

door window, and Parker could see her. *Id.* at 2. She testified that the next thing she knew, “there was a brick that came through the window” into her bedroom. *Id.* at 2, 104. Melisa called the police, and they came and arrested Parker. On April 18, 2017, Melisa filed a petition to obtain a protective order against him. The court issued a protective order, finding that Parker “represent[ed] a credible threat to the safety of the members of the household.” Ex. Vol. 1 at 30-31.

[5] On April 20, the summons and notice of protective order proceeding were served at Parker’s address in Hammond by the sheriff’s office. That same day, Patricia was sitting on her sister’s porch and saw Parker “across the street from [her] sister’s house.” Tr. Vol. 7 at 5. A neighbor took photos of Parker getting out of a car and walking towards Melisa’s house. As Parker was approaching the steps to the house, he tried to “lure” Patricia to “come talk to him[,]” saying things like “Patricia, I want to talk to you. Sweetie, I want to see you. I need to talk to you. Come talk to me. Why you’re [sic] not talking to me?” *Id.* at 6-7. Patricia reminded Parker about the restraining order and that he was “not supposed to be here” and to not come up the steps “any closer.” *Id.* at 7.

[6] In the early morning of April 22, Melisa awoke to what sounded like an explosion, “like a boom.” *Id.* at 111. She looked out her bedroom window and saw that the detached garage was on fire. Melisa screamed at Patricia to call 911. After the fire department extinguished the fire, they determined that Alex’s car parked next to the detached garage had been set on fire and that the fire then spread to the garage and part of a neighbor’s fence. Melisa’s neighbors had surveillance cameras set up directly across from her garage. Melisa reviewed the

footage from the cameras and identified Parker. Detective Ryan Gleason with the Hammond Police Department reviewed the video footage and observed Parker going behind Alex's car near the gas tank area and then backing away from the car, at which point flames came out from underneath the car. Parker phoned Patricia later that morning and said, "Oh I heard it's really hot out there in Hammond[,]” even though it was actually not “hot that day.” Tr. Vol. 7 at 12-13.

- [7] Finally, on April 30, Melisa saw Parker and his girlfriend parked in front of her house, and she immediately called police. When Parker realized that Melisa had seen him, he drove away. On May 8, 2017, the State charged Parker with level 4 felony arson, level 5 felony stalking (relating to Melisa), two counts of level 6 felony arson, two counts of level 6 felony stalking (one count relating to Patricia and one count relating to Melisa), class A misdemeanor invasion of privacy, and class B misdemeanor criminal mischief. The State filed an amended information in September 2019, dropping the level 6 felony arson charges and the level 6 felony stalking charge relating to Melisa. Parker requested to proceed pro se, and a jury trial began on August 3, 2021. At the conclusion of trial, the jury found Parker guilty on all counts except the level 6 felony stalking relating to Patricia. The trial court merged the class B misdemeanor into the level 4 felony arson and merged the class A misdemeanor into the level 5 felony stalking. The trial court sentenced Parker to ten years for arson and five years for stalking, to be served consecutively. This appeal ensued.

Discussion and Decision

[8] Parker challenges the sufficiency of the evidence to support his level 5 felony stalking conviction. In reviewing a claim of insufficient evidence, we do not reweigh the evidence or judge the credibility of witnesses, and we consider only the evidence that supports the judgment and the reasonable inferences arising therefrom. *Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009). It is “not necessary that the evidence ‘overcome every reasonable hypothesis of innocence.’” *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)). “We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt.” *Bailey*, 907 N.E.2d at 1005.

[9] To establish that Parker committed the offense of stalking as charged, the State was required to prove that between April 22 and May 3, 2017, Parker knowingly or intentionally engaged in a course of conduct that involved “repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened.” Ind. Code § 35-45-10-1. The offense is a level 5 felony if a protective order has been issued by the court to protect the victim from the person and that person has been given notice of the order. Ind. Code § 35-45-10-5. Harassment is defined as “conduct directed toward a victim that includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer

emotional distress.” Ind. Code § 35-45-10-2. Impermissible contact includes but is not limited to knowingly or intentionally following or pursuing the victim. Ind. Code § 35-45-10-3.

[10] Parker’s sole challenge on appeal is that the evidence was insufficient to establish that he engaged in the “repeated or continuing course of harassment of Melisa Torres” to support his level 5 felony stalking conviction. Appellant’s Br. at 4. Specifically, Parker contends that the only acts within the relevant time period alleged by the State that related to Melisa were the arson on April 22, 2017, and his act of parking outside Melisa’s home on April 30, 2017. Parker asserts that he “had every right to be on a public street” because “the right to travel” is a “liberty[,]” and therefore his parking outside Melisa’s home was lawful, and the single act of arson¹ is insufficient to establish repeated or continuing impermissible contact. Appellant’s Br. at 12; *see Nicholson v. State*, 963 N.E.2d 1096, 1101 (Ind. 2012) (concluding that the term “repeated” in Indiana’s anti-stalking law means “more than once.”).

[11] Parker directs us to *C.S. v. T.K.*, 118 N.E.3d 78 (Ind. Ct. App. 2019), in which we acknowledged that “[t]he right to travel is part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment.” *Id.* at 83 (quoting *Kent v. Dulles*, 357 U.S. 116, 125 (1958)). However, it is well established that “the right to travel is not unlimited[,]” and

¹ Although Parker states in his brief that he “adamantly denies that he committed the act of arson,” *see* Appellant’s Br. at 11, he does not challenge the sufficiency of the evidence to support that conviction.

our legislature “has passed numerous laws regarding stalking, ... harassment, ... and impermissible contact, which inhibit a person’s actions, restrict how a person may travel, preclude when a person may interact with others, and prevent a person from talking with specific individuals.” *Falls v. State*, 130 N.E.3d 618, 622 (Ind. Ct. App. 2019), *aff’d in relevant part*, 131 N.E.3d 1288 (Ind. 2019). Stated another way, otherwise lawful conduct may be “impermissible” and thus satisfy the harassment element of the stalking statute. Indeed, this Court has determined that the issuance of a protective order pursuant to Indiana Code Chapter 34-26-5 is a clear statement, providing both notice and an opportunity to be heard to an individual, that his or her otherwise lawful conduct is impermissible. *VanHorn v. State*, 889 N.E.2d 908, 913 (Ind. Ct. App. 2008), *trans. denied*. Thus, we disagree with Parker’s claim that his act of parking on the street outside Melisa’s home, after the protective order was issued, could not constitute impermissible contact.

[12] Assuming that his conduct was impermissible, Parker maintains that “a reasonable person would not be terrorized by seeing someone driving away” from her property without making any direct contact. Reply Br. at 8. The evidence shows that Melisa immediately contacted the police when she saw Parker sitting parked in a vehicle in front of her house just one week after he had entered her property while she was present, without her consent, and intentionally set her fiancé’s car on fire, which spread to her garage and her neighbor’s property. From this evidence, the jury could reasonably infer that Parker’s behavior actually caused Melisa to feel terrorized and that such

behavior would cause a reasonable person under the same circumstances to feel terrorized. Parker's arguments to the contrary are merely an invitation to reweigh the evidence, which we must decline. We conclude that sufficient evidence supports Parker's level 5 felony stalking conviction, and therefore we affirm it.

[13] Affirmed.

Vaidik, J., and Altice, J., concur.