

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Cameron O'Brien Wade,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

December 15, 2023

Court of Appeals Case No.  
23A-CR-274

Appeal from the Noble Circuit  
Court

The Honorable Michael J. Kramer,  
Judge

Trial Court Cause No.  
57C01-2201-F5-1

### **Memorandum Decision by Judge Riley**

Judges Bailey and Tavitas concur.

**Riley, Judge.**

## **STATEMENT OF THE CASE**

[1] Appellant-Defendant, Cameron O'Brien Wade (Wade), appeals his conviction for domestic battery, a Level 5 felony, Ind. Code § 35-42-2-1.3(a)(1); criminal confinement, a Level 6 felony, I.C. § 35-42-3-3(a); interference with the reporting of a crime, a Class A misdemeanor, I.C. § 35-45-2-5(3); and disorderly conduct, a Class B misdemeanor, I.C. § 35-45-1-3(a)(2).

[2] We affirm.

## **ISSUE**

[3] Wade presents this court with one issue on appeal, which we restate as: Whether the trial court abused its discretion by admitting evidence pursuant to a mutually agreed upon stipulation.

## **FACTS AND PROCEDURAL HISTORY**

[4] In the early morning hours of January 9, 2022, the dispatch officer at the Kendallville Police Department received a 911 call that hung up. After returning the call and determining its origin, two officers were dispatched to the residence. Patricia Wade (Patricia), Wade's grandmother, answered the door. She appeared agitated, and she was talking quickly, "stuttering over her words, [and] shaking." (Transcript Vol. II, p. 123). She had marks on the left side of her face underneath her left eye and on the left side of the bridge of her nose. Wade, who was agitated and inebriated, began yelling at Patricia. While one of the officers took Wade outside, the other officer remained with Patricia who advised him that, during an argument with Wade, Wade wrestled her for

control of the phone. He pushed Patricia to the floor, helped her up, shook her “like a rag doll,” and sat her on a couch, ordering her not to get up and checking on her periodically to make sure she was still seated. (Tr. Vol. II, p. 126). Eventually, Patricia was able to reach a phone and call 911. Wade stopped her before dispatch answered, which caused dispatch to return the call.

[5] While Patricia informed one of the officers about Wade’s conduct, the other officer had taken Wade outside, where Wade became “loud and boisterous.” (Tr. Vol. II, p. 115). The officer warned Wade twice to quiet down or he would be charged with disorderly conduct. Despite the warnings, Wade continued to yell, and he was placed under arrest. After Wade was handcuffed and placed in the officer’s vehicle, Wade proceeded to strike the window of the car with his head.

[6] On January 10, 2022, the State filed an Information, charging Wade with Level 5 felony domestic battery, Level 6 felony criminal confinement, Class A misdemeanor interference with reporting a crime, and Class B misdemeanor disorderly conduct. The trial court initially scheduled a jury trial for November 3, 2022, but trial was rescheduled after the victim was hospitalized. On November 2, twenty days before the rescheduled jury trial on November 22, 2022, Wade and the State executed and submitted an “Exhibit Stipulation” (Stipulation) to the trial court. The Stipulation stated that the parties agreed that “[u]pon motion of either party the following item of evidence shall be admitted into evidence during the trial of the cause herein without objection by either party:”

Exhibit 1	Initiating call to Kendallville Dispatch
Exhibit 2	Return call from Kendallville Dispatch
Exhibit 3	Officer Custer's body camera
Exhibit 4	Officer Custer's body camera
Exhibit 5	Officer Fretz's body camera
Exhibit 6	Officer Fretz's body camera
Exhibit 7	Officer Fretz's body camera
Exhibit 8	Officer Fretz's body camera
Exhibit 9	Officer Fretz's body camera
Exhibit 10	Photograph of [Patricia]
Exhibit 11	Photograph of [Patricia]
Exhibit 12	Photograph of Wade residence
Exhibit 13	Phone call between Officer Fretz and Patricia
Exhibit 14	Phone call between Wade and Patricia
Exhibit 15	Charging Information in 57D02-2010-CM-652
Exhibit 16	Plea and sentencing order in 57D02-2010-CM-652

(Appellant's App. Vol. II, p. 74). The Stipulation also provided that "each party waives any hearsay objection as to any of the items described herein."

(Appellant's App. Vol. II, p. 75).

[7] On November 22, 2022, the trial court conducted a jury trial at which Patricia failed to appear. The State alerted the trial court that the parties had executed the Stipulation, stipulating to the admissibility of multiple exhibits, and upon which the State had relied and acted "to condense its witness list." (Tr. Vol. II, p. 105). The State informed the court that because Patricia had failed to appear for the trial proceedings, Wade was going "to object to the admission of various exhibits." (Tr. Vol. II, p. 105). Wade's counsel noted that the Stipulation was entered into on "the understanding that [Patricia] was going to be here[.]" (Tr. Vol. II, p. 106). Finding that the "[S]tipulation [wa]sn't conditional" on Patricia's presence, the trial court enforced the Stipulation and admitted the

exhibits. At the conclusion of the evidence, the jury returned a guilty verdict on all Counts. In a bifurcated proceeding, Wade admitted to having a prior battery conviction, which elevated his domestic battery conviction to a Level 5 felony. On January 9, 2023, the trial court sentenced Wade to an aggregate sentence of six years and 180 days, with one year suspended to probation.

[8] Wade now appeals. Additional facts will be provided as necessary.

## **DISCUSSION AND DECISION**

[9] Wade contends that the trial court abused its discretion by admitting the exhibits pursuant to the Stipulation, as the Stipulation “did not represent a true meeting of the minds.” (Appellant’s Br. p. 5). Our standard of reviewing claims of alleged evidentiary error is well-settled: the decision to admit or exclude evidence is committed to the sound discretion of the trial court and will be reviewed only for an abuse of that discretion. *McMillen v. State*, 169 N.E.3d 437, 440-41 (Ind. Ct. App. 2021) “An abuse of discretion occurs where the trial court’s decision is clearly against the logic and effect of the facts and circumstances before it.” *Housand v. State*, 162 N.E.3d 508, 513 (Ind. Ct. App. 2020), *trans. denied*.

[10] “A party may refuse to stipulate to any facts.” *Perigo v. State*, 541 N.E.2d 936, 940 (Ind. 1989). Indeed, a stipulation is defined as ““an agreement between counsel with respect to business before a court.”” *Brown v. State*, 448 N.E.2d 10, 17 (Ind. 1983) (citing 26 I.L.E. Stipulations § 1 at 383 (1960)). “The use of the word ‘agreement’ in the definition of stipulation makes it apparent one party’s

willingness to enter into a stipulation has no significance unless the other party is also willing to enter the stipulation.” *Id.* (citing 83 C.J.S. Stipulations § 3 (1953)). Generally, a stipulation may not be withdrawn without the consent of both parties or for cause. *In the Matter of Ce.B.*, 74 N.E.3d 247, 250 (Ind. Ct. App. 2017). Typical grounds for cause would include fraud, mistake, or undue influence but do not include disadvantage to a party from the stipulation. *Id.*

[11] After the initial trial was rescheduled, and twenty days prior to the rescheduled trial, both parties entered into an agreement, stipulating to the admissibility of the exhibits, which included the body camera videos of the officers, in which Patricia provided statements. Both parties “did that with the understanding that [Patricia] was going to” be present during the proceedings, and while neither party expected her to be absent, they did not make Patricia’s presence a condition of the Stipulation. (Tr. Vol. II, p. 106). When Wade’s counsel noticed that Patricia was absent on the day of trial and that the State intended to use the Stipulation to admit the agreed upon exhibits, Wade’s counsel attempted to withdraw the Stipulation prior to the commencement of trial, asserting that the Stipulation was entered into on the condition that Patricia would testify at trial. However, as pointed out by the trial court—and we agree—the condition was not included in the Stipulation, which was very detailed in other areas. Therefore, Wade’s contention now essentially amounts to little more than a claim that the Stipulation was disadvantageous to him. Wade is not entitled to dissolution of the Stipulation on that basis. *See In the*

*Matter of Ce.B.*, 74 N.E.3d at 250. Accordingly, the trial court did not abuse its discretion by enforcing the Stipulation.

## **CONCLUSION**

[12] Based on the foregoing, we hold that the trial court did not abuse its discretion by admitting evidence pursuant to the Stipulation.

[13] Affirmed.

[14] Bailey, J. and Tavitas, J. concur