

Following a jury trial, Aundrea Bell was convicted of Resisting Law Enforcement¹ as a class A misdemeanor. The sole issue on appeal is, did sufficient evidence support her conviction?

We affirm.

The facts favorable to the conviction are that at approximately 4:30 p.m. on October 7, 2008, Bell's car was stalled in the right-hand lane of southbound North Meridian Street at the intersection of Fall Creek Parkway, North Drive. Officer Kory Dickerson of the Indianapolis Metropolitan Police Department observed Bell's vehicle and pulled to a stop behind her, activated his emergency lights, and walked up to her car. He knocked on her window and asked if there was anything wrong and whether he could help. Bell, who was obviously pregnant, opened the door and replied that her car was overheating. The officer asked if she had been sitting there long and she replied that she had not. He told her that if she would put her car in neutral he would push her to the side of the road so she would not obstruct traffic. Bell responded that she only needed a minute and then would be ready to leave. She then "slammed" her door shut. *Transcript* at 34. Officer Dickerson returned to his car and called for assistance. Officer Dickerson then returned to Bell's car "to try to get her to reason with [him]." *Id.* at 35. She turned the ignition key but the car did not start. She refused Officer Dickerson's request to open her door, indicating that she would rather talk to him through her back window. Officer Dickerson told Bell that in light of the fact that they were not going to get anything done with respect to moving her car out of the way, he was going to have her car towed "because I cannot leave it sitting here, and I wasn't going to be responsible for her

¹ Ind. Code Ann. § 35-44-3-3 (West, Westlaw through 2009 1st Special Sess.).

getting in an accident, or someone running into the back of her.” *Id.* He told Bell that she needed to find another means of transportation from the scene. He asked Bell her name and she provided it. He returned to his car and ran a check, which determined that Bell was indeed the registered owner of the car in which she was sitting. Officer Dickerson filled out a tow ticket and then began filling out a citation for obstructing traffic.

At about the time Officer Dickerson got out of his car and started walking back to Bell’s vehicle, other officers pulled behind his car. At that time, Bell started her vehicle and drove away. Officer Dickerson, whose emergency lights had already been activated, turned on his siren and pursued Bell. The other two officers, Officers Arthur Sibley and Matthew Lynch, did likewise. Notwithstanding that she was being pursued by three police cars with lights and sirens activated, at least two of which were honking their horns and ordering her to pull over, Bell refused to stop. After about a block and a-half, Officer Sibley drove in front of Bell’s vehicle, Officer Dickerson drove up next to her on the left, and Officer Lynch pulled up directly behind her. Officer Sibley slowed and then stopped his vehicle, forcing Bell to stop. Officer Sibley opened Bell’s door and ordered her to get out of her car. Bell, on the phone at the time, responded that they had no reason to pull her over. Officer Sibley reached for her left arm to pull her out of the car and she “pulled her arm closer to her body[.]” *Id.* at 42. Meanwhile, Officer Dickerson went to the front passenger door to unbuckle Bell’s seatbelt. Bell held onto the seatbelt and “wouldn’t let it go.” *Id.* She also grabbed and held the steering wheel in an effort to resist the officers’ efforts to remove her. In fact, according to Officer Lynch, while they were trying to extricate Bell from the car, “she’s just sitting in her car, trying to hold onto everything she can to not get out. Yelling at

us that she's not getting out of her car.” *Id.* at 101.

When they finally managed to remove Bell from the car, Officer Sibley pulled one of her arms behind her back in order to handcuff her. Bell refused to cooperate and held her free hand in front of her. When the officers attempted to pull that arm behind her back, Bell resisted by “pulling back, pushing, trying to get us off her.” *Id.* at 79. Eventually, the three officers managed to subdue Bell and handcuff her hands behind her back.

Bell was arrested and charged with resisting arrest – fleeing, a class D felony, and resisting arrest, a class A misdemeanor. She was found not guilty of the fleeing charge, but guilty of resisting arrest as a class A misdemeanor. Bell contends the evidence failed to establish that she used the requisite force against Officers Dickerson, Sibley, and Lynch. She essentially maintains that the evidence established at most that she passively resisted the officers, which she asserts cannot support the conviction.

Resisting law enforcement is defined in I.C. § 35-44-3-3, in pertinent part, as follows: “A person who knowing or intentionally: (1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of his duties as an officer commits resisting law enforcement, a Class A misdemeanor.”

The word “‘forcibly’ modifies ‘resists, obstructs, or interferes’”. *Graham v. State*, 903 N.E.2d 963, 965 (Ind. 2009) (quoting *Spangler v. State*, 607 N.E.2d 720,723 (Ind. 1993)). A person uses force, for purposes of the resisting law enforcement statute, when “‘strong, powerful, violent means are used to evade a law enforcement official’s rightful exercise of his or her duties’” or makes threatening gestures toward the official. *Id.* (quoting *Spangler v.*

State, 607 N.E.2d at 723); *see also Wellman v. State*, 703 N.E.2d 1061 (Ind. Ct. App. 1998). “Force” in this context may include refusing to rise or move where directed, so as to require officers to forcibly move the defendant from one place to another or to lift him onto his feet. *See, e.g., Johnson v. State*, 833 N.E.2d 516 (Ind. Ct. App. 2005); *Guthrie v. State*, 720 N.E.2d 7 (Ind. Ct. App. 1999), *trans. denied*; *Ajabu v. State*, 704 N.E.2d 494 (Ind. Ct. App. 1998). The force element is not satisfied, however, if a defendant does nothing more than stand his or her ground. *See Ajabu v. State*, 704 N.E.2d 494.

In *Spangler v. State*, 607 N.E.2d 720, our Supreme Court reversed the defendant’s conviction for resisting law enforcement, finding insufficient evidence of force where he resisted service of process by repeatedly and firmly refusing to accept service of process and walking away from an officer. In contrast, in *Guthrie v. State*, 720 N.E.2d 7, this court affirmed the defendant’s conviction for resisting law enforcement, finding the defendant exerted sufficient force by: (1) refusing to get out of the jail wagon, requiring that he be forcibly removed and placed on the ground; (2) refusing to get off the ground, requiring the officers to lift him; and (3) refusing to walk while leaning his back and stiffening his legs so that the officers had to carry him in to the receiving area. The court concluded that the defendant “did resist in some meaningful way that extended beyond mere passive resistance.”

Id. at 9. Similarly, in *Johnson v. State*, 833 N.E.2d 516, this court affirmed a conviction for resisting law enforcement, finding the defendant exerted sufficient force when he turned and pushed away with his shoulders while cursing and yelling at an officer who attempted to search him prior to being transported. The defendant then stiffened up, requiring the officers to physically place him in the transport vehicle.

Here, as in *Guthrie* and *Johnson*, Bell actively and forcibly resisted Officers Dickerson and Sibley by (1) refusing to get out of her car, requiring the officers to forcibly extract her therefrom, (2) holding onto the seatbelt while Officer Dickerson attempted to unbuckle it, (3) holding onto “everything she [could]”, including the steering wheel, to resist their efforts to extract her, *Transcript* at 101, and (4) pulling and pushing her arms in resisting the officers’ attempts to handcuff her. Bell’s conduct was sufficient to establish the “forcibly” element of resisting law enforcement. We therefore conclude the evidence is sufficient to sustain her conviction for resisting law enforcement.

Judgment affirmed.

KIRSCH, J., and ROBB, J., concur.