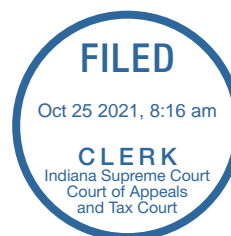


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT

Steven Knecht
Vonderheide & Knecht, P.C.
Lafayette, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
George P. Sherman
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Jason C. Baldauf,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 25, 2021

Court of Appeals Case No.
21A-CR-699

Appeal from the Tippecanoe
Superior Court

The Honorable Kristen E. McVey,
Judge

Trial Court Cause No.
79D05-2005-F6-518

Bailey, Judge.

Case Summary

- [1] Following a jury trial, Jason C. Baldauf (“Baldauf”), challenges his conviction of Intimidation, as a Level 6 felony.¹ The only issue he raises on appeal is whether the State presented sufficient evidence to support his conviction.
- [2] We affirm.

Facts and Procedural History

- [3] On October 21, 2019, Ashley Turner (“Turner”) was working as a Psychiatric Mental Health Nurse Practitioner at Franciscan Physician Network Behavioral Health clinic. Turner’s professional responsibilities included medication management, collaboration with patients’ therapists, and reviewing patients’ medical issues and histories. On that date, Baldauf—who had been diagnosed with bipolar disorder—had an appointment with Turner. Baldauf’s girlfriend, Amanda McClane (“McClane”), accompanied him to his appointment.
- [4] At the October 21 appointment, Turner closed her office door after Baldauf and McClane entered and were seated. Turner began the meeting by raising the issue of Baldauf’s possible past use of methamphetamine. Specifically, Turner informed Baldauf that the Empath Unit—a unit for psychiatric patients at which Baldauf had previously been a patient—reported that he had used

¹ Ind. Code § 35-45-2-1(a)(2) and (b)(1)(C).

methamphetamine which could interfere with medications. Baldauf stated that he no longer used methamphetamine. He further claimed that a psychiatrist at the Empath Unit had told him to go back to smoking cigarettes and to stop taking his medications, which made him angry. Baldauf stated he was also angry because an Empath Unit security guard had punched and tased him. Baldauf stated “that he was going to kill someone and it would be all the hospital[']s fault.” Tr. at 29.

[5] As Baldauf discussed the Empath Unit, he became “irate” and “agitated.” *Id.* at 28, 93-94. McClane asked Turner “a couple of times to please change [the] subject.” *Id.* at 94. However, Turner “kept going on about the Empath Unit even after [McClane] asked her to change the subject and [Baldauf] also asked her to change the subject. And [Baldauf] was getting irritated or frustrated with it.” *Id.* Turner asked Baldauf if there was “anybody specific that [he was] wanting to kill.” *Id.* at 29. Baldauf then jumped up from his seat and yelled, “you are going to EDO^[2] me, aren’t you?” *Id.* Baldauf was screaming and “got up in [Turner’s] face and ... raised his fists and ... cornered [Turner] up onto [her] desk.” *Id.* Although Turner could not understand all the words that Baldauf was screaming, she heard him repeatedly say the word “kill.” *Id.*

[6] Baldauf “opened the [office] door [and] slammed it into the wall more than once.” *Id.* at 29-30. Baldauf moved back toward Turner and “got [her] kind of

² EDO is an acronym for “emergency detention order.” *Id.*

pinned back again ... up [on]to the corner of [her] desk.” *Id.* at 30. Baldauf picked up a chair and “slammed it down.” *Id.* Baldauf took off his shirt and punched himself in the face. Baldauf came back to where Turner was cornered and he began “banging his head on the shelving unit.” *Id.* Baldauf had “his fist raised as if he was going to strike” Turner while she was cornered, but he did not strike her. Turner placed her hands in the air and her feet against Baldauf to prevent him from hitting her. Turner told Baldauf that he could “go” and she was “not going to EDO [him].” *Id.* Baldauf stated that his appointment was not over yet.

[7] Other clinic staff finally reached Turner’s office. Cara Kuyper (“Kuyper”), the clinic’s patient services representative, witnessed Baldauf take his shirt off and punch himself in the face. She also saw Turner “sitting up on her desk with her hands and her feet up in [a] protective stance and [Baldauf] was right on top of her[,] ... so close that there was barely any room between them,” and Baldauf had “his fist raised.” *Id.* at 43-44.

[8] Kelli Conlon (“Conlon”), a therapist at the clinic who had treated Baldauf in the past, also arrived at Turner’s office and saw Baldauf with his shirt off, facing Turner. Conlon saw Turner on her desk in the protective stance while Baldauf yelled and had his arm drawn back. Conlon “was afraid [Baldauf] might hit [Turner]” so Conlon stepped up to Baldauf and talked to him while trying to make eye contact. *Id.* at 51. When Baldauf saw Conlon, he stepped back from Turner and began punching his own head and hitting his head against a cabinet. Conlon then stepped in between Baldauf and Turner, “hoping that if

[she was] blocking ... the source of ... his frustration [she could] calm him down and deescalate the situation.” *Id.* at 53. Conlon asked Baldauf to calm down and motioned for him to follow her out of the office. Baldauf and McClane then followed Conlon out of the office.

[9] The State charged Baldauf with Criminal Mischief, as a Class B misdemeanor;³ Criminal Confinement, as a Level 6 felony;⁴ and Intimidation, as a Level 6 felony. On March 16, 2021, the jury found Baldauf guilty but mentally ill as to Intimidation as a Level 6 felony. The jury found Baldauf not guilty of the other charges. The trial court sentenced Baldauf accordingly, and this appeal ensued.

Discussion and Decision

[10] Baldauf challenges the sufficiency of the evidence to support his conviction of Intimidation, as a Level 6 felony.

When reviewing a claim that the evidence is insufficient to support a conviction, we neither reweigh the evidence nor judge the credibility of the witnesses. *Harrison v. State*, 32 N.E.3d 240, 247 (Ind. Ct. App. 2015), *trans. denied*. We instead respect the exclusive province of the trier of fact to weigh any conflicting evidence. *Id.* We consider only the probative evidence supporting the verdict and any reasonable inferences that may be drawn from this evidence. *Id.* We will affirm if the probative evidence and reasonable inferences drawn from the evidence

³ I.C. § 35-43-1-2(a).

⁴ I.C. § 35-42-3-3(a).

could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *Id.*

Merriweather v. State, 128 N.E.3d 503, 514-15 (Ind. Ct. App. 2019), *trans. denied*.

“A defendant’s intent may be proven by circumstantial evidence alone, and knowledge and intent may be inferred from the facts and circumstances of each case.” *Chastain v. State*, 58 N.E.3d 235, 240 (Ind. Ct. App. 2016), *trans. denied*; *see also Tin Thang v. State*, 10 N.E.3d 1256, 1258 (Ind. 2014) (noting a verdict of guilt may be based upon an inference if reasonably drawn from the evidence).

“[T]he question on appeal is whether the inferences supporting the verdict were reasonable, not whether other, ‘more reasonable’ inferences could have been drawn.” *Jones v. State*, 22 N.E.3d 877, 879 (Ind. Ct. App. 2014) (quoting *Thompson v. State*, 804 N.E.2d 1146, 1150 (Ind. 2004)).

[11] To prove Baldauf committed Intimidation, as a Level 6 felony, the State was required to prove beyond a reasonable doubt that: (1) Baldauf; (2) communicated a threat; (3) to Turner; (4) with the intent Turner be placed in fear of retaliation; (5) for the prior lawful act of performing her duties in professionally treating Baldauf. *See* I.C. § 35-45-2-1(a)(2) and (b)(1)(C). A “threat” is defined, in relevant part, as “an expression, by words or action, of an intention to: (1) unlawfully injure the person threatened.” I.C. § 35-45-2-1(d)(1). Baldauf asserts that the State failed to prove he communicated a threat to Turner. In addition, he maintains there was insufficient evidence that he intended to retaliate for Turner’s prior lawful act.

[12] Baldauf claims both that there is no proof of a threat and that, even if there was such proof, there is no proof that the threat was directed at Turner. We disagree. The State provided evidence that Baldauf stated he was going to “kill someone[,]” then “got up in [Turner’s] face and ... raised his fist” while screaming. Tr. at 29. Three separate eyewitnesses stated that they saw Baldauf, with his fist raised, standing over Turner while she was cornered and in a protective stance on her desk. That was sufficient evidence from which a jury could reasonably infer that Baldauf, by his actions, threatened to unlawfully injure Turner. *See* I.C. § 35-45-2-1(d)(1) (emphasis added) (specifically defining a “threat” as an expression, “by words *or* action”).

[13] The State also provided sufficient evidence that Baldauf threatened Turner with the intent to place her in fear of retaliation for her prior lawful action of performing her duties in professionally treating Baldauf. Baldauf was in Turner’s office in order to receive her professional services as a psychiatric mental health nurse practitioner. Those duties included addressing Baldauf’s medical issues and history, including his treatment by the Empath Unit, and his medications, including possible use of illegal drugs that could interfere with his prescribed medications. However, Baldauf and his girlfriend asked Turner to stop discussing those issues. It was not until Turner continued to address Baldauf’s contentions about his treatment at the Empath Unit that Baldauf became irate and threatened Turner. From those facts, the jury could reasonably infer that, when threatening Turner, Baldauf intended to place her in fear of retaliation for her lawful action—taken in her professional capacity—of

discussing Baldauf's medical issues and history. *See* I.C. § 35-45-2-1(a)(2) and (b)(1)(C).

[14] The State presented sufficient evidence to support Baldauf's conviction of Intimidation, as a Level 6 felony.

[15] Affirmed.

Crone, J., and Pyle, J., concur.