

MEMORANDUM DECISION



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IN THE COURT OF APPEALS OF INDIANA

Gregory Obrien,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 27, 2021

Court of Appeals Case No.
21A-CR-798

Appeal from the Marion Superior
Court

The Honorable Amy M. Jones,
Judge

Trial Court Cause No.
49D34-1908-CM-33313

Altice, Judge.

Case Summary

- [1] Following a bench trial, Gregory Obrien was convicted of Class A misdemeanor resisting law enforcement. On appeal, Obrien claims that the State did not prove that the officer who detained him was lawfully engaged in his duties at the time of the incident, and, therefore, the evidence was insufficient to convict him.
- [2] We affirm.

Facts & Procedural History

- [3] At approximately 5:50 p.m. on August 19, 2019, Indianapolis Metropolitan Police Department Officer Brennen Castro and another officer, both in full uniform, were dispatched to a wooded area behind a Kroger store regarding an individual who had overdosed. When the officers arrived, paramedics were already on the scene and rendering aid to Obrien, who was unconscious. The medics administered Narcan to Obrien, and, after receiving a second dose, Obrien regained consciousness. Those on scene “were able to calm [] down” Obrien, who informed the officers and medical personnel on the scene that he “was taking a nap.” *Transcript* at 5. The medical team “insisted” that Obrien go to the hospital as he had “just overdosed” and, before Narcan, was “completely unconscious,” but Obrien refused. *Id.* Officer Castro communicated to Obrien for several minutes that he needed to go to the hospital, but Obrien again refused, expressing that he had not overdosed. The officers then “made the decision to place him under immediate detention.” *Id.*

- [4] When the officers tried to handcuff Obrien, he forcefully pulled his arms away and held them in front of his body. Officers maneuvered Obrien to the ground on his stomach, and the officers were able to bring his arms out from underneath him, secure him in handcuffs, and move him to the ambulance.
- [5] On August 22, 2019, the State charged Obrien with Class A misdemeanor resisting law enforcement. At the April 2021 bench trial, the State presented the testimony of Officer Castro as described above. Officer Castro explained that, in these types of situations, where emergency medical personnel are attending to an overdosed individual, law enforcement generally remains on the scene “in case the subject becomes combative[,]” which he said “oftentimes” occurs when the person regains consciousness. *Id.* Officer Castro described that, in this case, “we were able to calm [Obrien] down” when he became conscious, but Obrien believed he had not overdosed and refused to go to the hospital. *Id.* The officers determined that immediate detention was necessary because Obrien posed a danger to himself “if we were to leave him in the state he was in[,]” and “there was a high likelihood that he could overdose again[.]” *Id.*
- [6] Following the argument of counsel, the trial court found Obrien guilty as charged. It explained its reasoning: The officers were called to the location on an overdose, “it sounded like a bad one if there had to be two differen[t] Narcans used to wake him[,]” the officers explained to Obrien that the medical personnel believed it was in his best interest to go to the hospital, and, in the court’s view, Obrien posed “a danger to himself and others at that point.” *Id.* at 13. The court further explained that regardless of the fact that Obrien thought

he should not go for treatment, “he did resist [the officers], he did interfere with them.” *Id.* The trial court sentenced Obrien to 365 days in the county jail, with 359 suspended to probation. Obrien now appeals.

Discussion & Decision

[7] Obrien argues that his conviction for resisting law enforcement is not supported by sufficient evidence.¹ When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. *Jordan v. State*, 37 N.E.3d 525, 530 (Ind. Ct. App. 2015). We do not assess witness credibility or reweigh the evidence. *Id.* We consider conflicting evidence most favorably to the trial court’s ruling. *Id.* We affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.* (quotations omitted).

[8] In order to convict Obrien of resisting law enforcement, the State was required to prove that Obrien: (1) knowingly or intentionally; (2) forcibly; (3) resisted, obstructed, or interfered with a law enforcement officer or a person assisting the officer; (4) while the officer was lawfully engaged in the execution of the

¹ Obrien also includes a paragraph alleging that “[t]he conviction for resisting law enforcement was entered in violation of Obrien’s rights to due process, fundamental fairness, and a fair trial, as well as his right to refuse medical treatment, under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article One, Sections One, Twelve, Thirteen, and Thirty-Seven of the Indiana Constitution.” *Appellant’s Brief* at 7. However, his argument is focused solely on the sufficiency of the evidence, and any other claims are waived for failure to present cogent argument. Ind. Appellate Rule 46(A)(8).

officer's duties. Ind. Code § 35-44.1-3-1(a)(1). O'Brien challenges only the last element, asserting that the evidence was insufficient to show that Officer Castro was lawfully engaged in his duties at the time of the incident. Specifically, O'Brien asserts that he "had a right under the United States and Indiana Constitutions," as well as under Indiana statutes, to refuse medical treatment and that Officer Castro detained O'Brien pursuant to the immediate detention statute, Ind. Code § 12-26-4-1, but "the State did not prove that the immediate detention statute was applicable." *Appellant's Brief* at 6, 9. Thus, he claims, Officer Castro was not lawfully engaged in his duties and the conviction for resisting law enforcement must be reversed.

[9] We begin by examining the immediate detention statute, which is found in Ind. Code. Art. 12-26, titled "Voluntary and Involuntary Treatment of Mentally Ill Individuals." The immediate detention statute gives officers the right to detain and transport a person to a medical facility under certain circumstances. It provides, in part:

A law enforcement officer, having reasonable grounds to believe that an individual has a mental illness, is either dangerous or gravely disabled, and is in immediate need of hospitalization and treatment, may . . . [a]pprehend and transport the individual to the nearest appropriate facility. The individual may not be transported to a state institution.

I.C. § 12-26-4-1.²

[10] For purposes of I.C. Art. 12-26, “mental illness” means a psychiatric disorder that substantially disturbs an individual’s thinking, feeling, or behavior and impairs the individual’s ability to function and includes “addiction to narcotics or dangerous drugs[.]” Ind. Code § 12-7-2-130(1). “Dangerous” means a “condition in which an individual as a result of mental illness presents a substantial risk that the individual will harm the individual or others.” I.C. § 12-7-2-53. O'Brien argues that there was no evidence that he was addicted to narcotics or dangerous drugs, and thus “[t]he State did not prove that Officer Castro had reasonable grounds to believe that O'Brien was a person with a mental illness under the immediate detention statute[.]” which made his detention unlawful and conviction for resisting law enforcement invalid. *Appellant’s Brief* at 6, 11 (internal quotations omitted). We disagree and reject O'Brien’s narrow reading of the immediate detention statute that would require law enforcement to have specific knowledge of a known, identified drug *addiction* prior to detaining an individual who had overdosed on drugs and was in need of medical treatment.³

² Detention is not an arrest and probable cause is not required; rather, detention requires an officer to have “reasonable grounds” to believe that the individual’s circumstances satisfy the requirements for detention. *See* I.C. § 12-26-4-1.

³ Our finding in this regard is consistent with related statutes that permit involuntary commitment for individuals who have a substance abuse *or* addiction condition. *See* Ind. Code § 12-23-11.1-1 (providing that an individual “who is a drug abuser” may be involuntarily committed to the care of the division for alcoholics and drug abusers under I.C. Art. 12-26) and I.C. § 12-26-1-1.5 (stating that judges, prosecutors,

[11] In this case, Officer Castro was dispatched to a location for an individual who had overdosed. Obrien was lying unconscious on the ground in a wooded area behind a Kroger. Officer Castro was not certain if he was breathing. Although Obrien suggests that “[t]here is no evidence showing the nature of the substance that led to the overdose[,]” *Appellant’s Brief* at 11, Obrien returned to consciousness only after receiving two doses of Narcan, which is a drug used for the treatment of a known or suspected opioid overdose. *See Bailey v. State*, 131 N.E.3d 665, 674 n.8 (Ind. Ct. App. 2019) (stating that Narcan is “[t]he drug used to treat opiate overdose and to reverse coma and respiratory depression”), *trans. denied*. On the facts before him, it was reasonable for Officer Castro to infer that Obrien had overdosed from an opioid, i.e., a narcotic or dangerous drug.

[12] Once revived, those at the scene were able to “calm [] down” Obrien. *Transcript* at 5. Obrien denied that he had overdosed and said he had been napping; thus, he either did not realize he had overdosed, which indicates a lack of insight into the gravity of the situation, or was lying about it to conceal his drug use. The emergency medical technicians expressed, indeed “insisted”, that in their view Obrien needed medical treatment based on his overdose and current state. *Id.* On this record, and considering the probative evidence and reasonable inferences therefrom, the State presented sufficient evidence from which Officer

and public defenders shall be provided training on the use of involuntary commitment “for individuals who have a substance abuse or addiction condition[.]”)

Castro could reasonably infer that O'Brien had an addiction to narcotics or dangerous drugs such that immediate detention under I.C. § 12-26-4-1 was warranted.

[13] Having concluded that Officer Castro was lawfully engaged in his duties when he detained O'Brien for medical treatment, we find that sufficient evidence supports O'Brien's conviction for resisting law enforcement.

[14] Judgment affirmed.

Bradford, C.J. and Robb, J., concur.