

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Yvette M. LaPlante
LaPlante LLP
Evansville, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General
Megan M. Smith
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Randall E. James,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 3, 2021

Court of Appeals Case No.
21A-CR-882

Appeal from the
Vanderburgh Circuit Court

The Honorable
Celia Pauli, Magistrate

Trial Court Cause No.
82C01-1911-F4-8176

Vaidik, Judge.

Case Summary

- [1] Randall Eugene James was convicted of two counts of Level 4 felony arson for starting fires at his ex-wife's apartment and her mother's apartment. He now appeals, arguing the trial court erred in admitting surveillance videos into evidence. Finding any error harmless, we affirm.

Facts and Procedural History

- [2] In 2019, Sandra Tinsley lived in an apartment at Grandview Tower and her mother Geral Tinsley lived a quarter mile away in an apartment at The Crossing in Evansville. In August, Sandra and her ex-husband James, who were briefly married in 2000, rekindled their relationship.
- [3] The relationship didn't last long, and on October 23 Sandra sought a protective order against James. James was served with the protective order and ordered to appear for a hearing on November 22. After the protective order was issued, James drove by Sandra's apartment, rang her doorbell, called and texted her, and left voicemails. At one point, Sandra had 151 voicemails from him. Tr. Vol. II p. 116. In these communications, James demanded that Sandra get back with him, threatened to burn her belongings, and told her if she didn't "drop" the protective order he would "take care of" her. *Id.* at 77-78. Sandra called the police on James six times: October 28, November 5, November 7, November 9, November 12, and November 18.

[4] On November 21—the day before the protective-order hearing—James called Sandra and told her if she didn’t get back with him, “it was going to be the end of” her. *Id.* at 83. That evening, James called Sandra again, telling her to pack a bag because she was going with him. In the early morning hours of November 22, Sandra’s neighbor called 911 to report that a man whom Sandra had a protective order against was there to see her and had tried to enter the apartment building. James also left two voicemails for Sandra. The first one states:

I’m done playing . . . I’m coming. I’m coming tonight. I’m going to smoke your bit** a** out and then I’m going to go scream and smoke your mom out. . . . You better get your fu**ing shit together and you better get it together and get it now. You get your godda** clothes packed, shit packed, and be ready to fu**ing roll cause you’re going with me whether you want to or not.

Ex. 7. The second one states:

Sandy. I hope you get this. I pray to God you get this. Oh my God. Listen, I’m coming over. I’m coming. Call the law. Call the fire department because it’s gonna be a fu**ing hot motherfu**er over there.

Ex. 8. Around 3:30 a.m., James called Sandra and told her she had ten minutes to pack a bag and meet him outside or else he was coming in “one way or another.” Tr. Vol. II p. 91. Shortly thereafter, Sandra heard a knock on her door. She looked through the peephole and saw James standing outside her door. Sandra called 911. Ex. 9. While Sandra was on the 911 call, she started

screaming and told the dispatcher James had just started a fire outside her door and that she smelled gasoline. Sandra went to her balcony and saw James walking across the parking lot. James yelled to Sandra, “I told you I was going to get you, bit**.” Tr. Vol. II p. 92. Sandra can be heard on the 911 call yelling at James. The fire activated the sprinkler system, which extinguished the fire before firefighters arrived.

[5] Fourteen minutes after the fire alarm went off at Grandview Tower, the fire alarm went off at The Crossing. *See* Tr. Vol. III p. 12. Geral was asleep in her apartment when she was awakened by her smoke detector going off. She got out of bed and saw flames coming up from under her front door. Geral put out the fire with some water and exited her apartment through the patio door. Firefighters extinguished a small fire when they arrived but had to return a second time because there was a “hidden fire” that wasn’t initially detected. *Id.* at 8.

[6] The police obtained a search warrant for James’s car and found a gas can containing some gasoline in the trunk. *See id.* at 60. According to a fire investigator, both fires were “incendiary” (intentionally set) and started when an object was used to light an accelerant. *Id.* at 7. A forensic scientist with the Indiana State Police Laboratory examined carpet samples taken from both apartments and determined the accelerant used was gasoline. *See id.* at 16-17.

- [7] The State charged James with two counts of Level 4 felony arson (one count for each apartment) and alleged he was a habitual offender.¹ At the jury trial, the State introduced Exhibits 13-17, which are surveillance videos from Grandview Tower, and Exhibits 11-12, which are surveillance videos from The Crossing. Specifically, Exhibits 13-17 show a white man wearing a hood and carrying a bag entering Grandview Tower, getting off the elevator on Sandra’s floor shortly before a fire erupted outside her door, and then leaving the building through a stairwell. And Exhibits 11-12 show a car that looked like James’s car enter the parking lot at The Crossing shortly before the fire and exit the parking lot shortly after the fire. James objected to Exhibits 13-17 on grounds they weren’t properly authenticated and Exhibits 11-12 on grounds no proper chain of custody was established. The trial court admitted the exhibits into evidence.
- [8] The jury found James guilty of both arson counts. A bench trial was then held on the habitual-offender enhancement, and the trial court found James to be a habitual offender. The court sentenced him to twenty-two years.
- [9] James now appeals his arson convictions.

Discussion and Decision

¹ The State also charged James with Level 5 felony stalking and two counts of Class B misdemeanor criminal mischief, and the jury found him guilty of these charges. The trial court merged the criminal-mischief counts into the arson counts and sentenced James to a concurrent term of six years for stalking. James does not appeal the stalking conviction.

[10] James contends the trial court erred in admitting Exhibits 11-17 into evidence. Specifically, he argues the court erred in admitting Exhibits 13-17 because the State “failed to establish that the videos had not been tampered with or distorted” and Exhibits 11-12 because the State failed to establish they “passed through the hands of the custodians in undisturbed condition.” Appellant’s Br. pp. 11, 16. The State responds the trial court properly admitted the exhibits into evidence but even if the court erred in admitting them, the error was harmless. We need not decide whether the trial court erred, because we agree with the State any error was harmless.

[11] Not every error by the trial court requires a reversal. *State v. Haldeman*, 919 N.E.2d 539, 543 (Ind. 2010). Errors that do not affect the substantial rights of the parties are to be disregarded. *Id.* “To determine whether an error prejudiced a defendant, we assess the probable impact the error had upon the jury in light of all of the other evidence that was properly presented. If the conviction is properly supported by other independent evidence of guilt, the error is harmless.” *Williams v. State*, 43 N.E.3d 578, 581 (Ind. 2015) (citation omitted).

[12] Here, there was substantial independent evidence of James’s guilt. On the night of the fires, James left Sandra two voicemails—neither of which James acknowledges on appeal. In the voicemails, James told Sandra he was coming over that night “to smoke your bit** a** out and then I’m going to go scream and smoke your mom out” and to “[c]all the fire department because it’s gonna be a fu**ing hot motherfu**er over there.” Exs. 7, 8. When James knocked on Sandra’s door, she called 911. *See* Ex. 9. During the recording of the 911 call—

which James also does not acknowledge on appeal—Sandra told the dispatcher James started a fire outside her door. Sandra went to her balcony and saw James walking across the parking lot. Sandra can be heard on the 911 call yelling at him. Several minutes later, and as James promised in the voicemail, a nearly identical fire erupted at Geral’s apartment a quarter mile away. A search warrant was obtained, and a gas can was found in James’s trunk. According to a fire investigator, both fires were intentionally set when an object was used to light an accelerant. And according to a forensic scientist, the accelerant used was gasoline. Given the substantial independent evidence of James’s guilt, we find any error in the admission of Exhibits 11-17 to be harmless.

[13] Affirmed.

Najam, J., and Weissmann, J., concur.