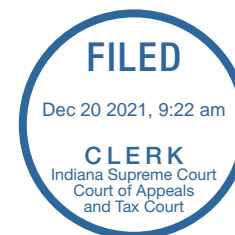


MEMORANDUM DECISION

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.



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IN THE COURT OF APPEALS OF INDIANA

Antonio Deon Liggons,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff,

December 20, 2021

Court of Appeals Case No.
21A-CR-1247

Appeal from the LaPorte Superior
Court

The Honorable Roger V. Bradford,
Judge

Trial Court Cause No.
46D01-1908-F2-1142

Robb, Judge.

Case Summary and Issue

- [1] Following a jury trial, Antonio Liggons was convicted of attempted robbery, a Level 2 felony. Liggons now appeals, raising one issue which we restate as whether there was sufficient evidence to convict Liggons. Concluding the evidence was sufficient, we affirm.

Facts and Procedural History

- [2] On the night of August 17, 2019, Tristan Wright, a South Bend resident, drove to a bar located at Blue Chip Casino in Michigan City to watch a mixed martial arts fight on television. While at the casino, Wright watched the fight, drank a beer, and ingested a small amount of cocaine. Wright then left the casino and drove to a different Michigan City bar, Local Option, in hopes of finding a friend of his.
- [3] Wright arrived at Local Option after midnight. Although Wright's friend was not at Local Option, Wright stayed and mingled with bar patrons. He found his way to the bar's pool tables and began socializing with two men he did not know. One of those men, Liggons, introduced himself as "Hunit," short for "one hundred," Transcript, Volume III at 76, and showed Wright a tattoo on his neck depicting the number "100" in red and green ink. The other man was Liggons' brother, Glen. Glen introduced himself, but Wright would forget his name. The three drank, played pool, placed bets, and talked for approximately one and one-half hours until the three left the bar at approximately 3:15 A.M.

[4] The three men exited Local Option and discussed continuing the night back at Glen's house. Wright offered to drive them to Glen's house and Liggons and Glen agreed. Glen sat in the front passenger seat and Liggons sat in the driver's side rear passenger seat of Wright's truck. Unfamiliar with the area, Wright relied on directions from the other two men to get to Glen's home. Upon arrival, Liggons pointed a handgun at Wright and said, "I'm gonna need that watch." *Id.* at 89. At that moment, Glen exited the truck. Wright refused and told Liggons to join Glen and get out of his truck. Liggons responded by shooting Wright through the shoulder. Liggons exited the vehicle and Wright drove away.

[5] Wright spent the next several minutes driving around Michigan City looking for help. At approximately 4:00 A.M., Wright drove up to the gates of the Indiana State Prison located in Michigan City which, in his injured condition, he believed was a gated community, and stopped a woman outside the gates for help. A 9-1-1 call was placed and the local police arrived shortly thereafter. Although he appeared bloody and a bit disoriented, Wright was able to tell police that his friend, with dreads, who he had been with at Local Option that night, had tried to rob him and shot him when he refused to comply with the robbery. Wright was transported by ambulance to a hospital for treatment. It was later determined that Wright suffered multiple broken ribs and a punctured lung as a result of being shot. He would spend several weeks recovering and was unable to work for two months.

[6] On August 19, 2019, Detective Anna Painter of the Michigan City Police Department visited the hospital and obtained an accounting of events from Wright. Wright identified Liggons as the shooter but was unable to provide Detective Painter with Liggons' real name. Instead, Wright identified Liggons by his nickname, tattoo, clothing, and hair. Meanwhile, the Michigan City Police Department was able to obtain Local Option's surveillance footage from the night in question. The video shows the activities of Wright, Liggons, and Glen while inside the bar. Using this footage, Wright's description of the night in question, and an anonymous tip, Detective Painter was able to identify Liggons and Glen as potentially being the two men who were in Wright's truck the night he was shot. Thereafter, Detective Painter again met with Wright, and he reiterated his description of Liggons. Detective Painter then showed Wright separate photo lineups for Glen and Liggons. Although Wright was unable to identify Glen, he immediately identified Liggons. Significantly, Liggons' tattoo was not visible in his lineup photo.¹

[7] On August 23, 2019, Liggons was charged with attempted robbery, a Level 2 felony, and aggravated battery, a Level 3 felony. At his jury trial, Liggons presented no testimony or evidence. However, the State presented extensive video evidence of the three men's activities together inside Local Option, body

¹ The photos used in the lineup were photos from the Indiana Bureau of Motor Vehicles ("BMV"). In his BMV photo, Glen's hair was cut close to the scalp. On the night of the attempted robbery, Glen's hair was noticeably different as it was long and in dreadlocks. Conversely, Liggons' appearance was approximately the same except that his tattoo was covered by the collar of a jacket in his photo.

camera footage from the police that provided Wright assistance, and testimony regarding a recorded phone call placed by Liggons while in prison where he identified himself as “Hunit.”² *Id.* at 200.

[8] The State also offered extensive testimony relating to the night in question including testimony from Glen, Wright, and Detective Painter. Glen testified that the three men had interacted at Local Option. He testified to being at the bar with Liggons and Wright until approximately closing time and leaving the bar with the other two men. Further, Glen acknowledged that the three discussed continuing the night elsewhere and had been near Wright’s truck after exiting Local Option. However, Glen indicated that he and Liggons chose to walk home instead.

[9] Wright testified to the events described above. *See supra* ¶¶ 1-6. He also provided lengthy testimony regarding his alcohol consumption and cocaine ingestion. Particularly, he testified to only consuming a few beers and the small amount of cocaine over the course of the entire night. He indicated that at no point during the night was he intoxicated. Wright further provided a detailed account regarding the events that took place in his truck. Although the State acknowledged, and the defense pointed out, that no physical evidence, DNA, or fingerprints belonging to Glen or Liggons were found in Wright’s truck, the State presented testimony that failure to find such physical evidence is not

² The recording of the phone call was not played at trial because of its length. Instead, the contents of the call were testified to by Detective Painter. The recording was entered as an exhibit.

uncommon.³ Wright indicated that Glen and Liggons got into his truck and provided him directions. He testified that upon arriving at what he believed was Glen's home, the three chatted, and ultimately Liggons demanded Wright's watch and shot Wright when he refused. Wright identified Liggons in court as the shooter.

[10] Detective Painter testified regarding her investigation of the case. She described her review of the security camera footage from Local Option and body camera footage from when police arrived to assist Wright at the Indiana State Prison. She testified that based on the security camera footage showing a sag in Liggons' pants, it was possible that he was carrying a gun on the night in question. She further indicated that although she was unaware of Wright's blood alcohol level, she did not believe that Wright was intoxicated on the night in question.⁴ Based upon her experience and training, Detective Painter stated that Wright's actions while at Local Option were not indicative of an intoxicated individual. She acknowledged Wright was hard to understand when he was speaking to police, but that he seemed "coherent" for someone who was in severe pain and that Wright was likely in shock, not intoxicated. *Id.* at 205, 209. Detective Painter's assessment of Wright echoed a police

³ An Indiana State Police DNA Analyst testified to the procedures for obtaining DNA and fingerprints from a crime scene, his application of those procedures in this case, and that failure to obtain DNA or fingerprints is not an unlikely occurrence.

⁴ The record does not indicate that Wright's blood alcohol content was ever checked by authorities.

officer describing Wright as “coherent” on the body camera footage offered at trial. State’s Exhibit 3 at 0:02:45.

[11] At the conclusion of evidence, the jury returned a verdict finding Liggons guilty of both attempted robbery and aggravated battery. The trial court took the verdict under advisement. At the sentencing hearing, the trial court merged the aggravated battery conviction into the attempted robbery conviction, entered judgment of conviction for attempted robbery only, and sentenced Liggons to twenty years to be served in the Indiana Department of Correction. Liggons now appeals.

Discussion and Decision

I. Standard of Review

[12] When reviewing the sufficiency of the evidence needed to support a conviction, we will not reweigh the evidence or judge the credibility of witnesses. *Nunley v. State*, 995 N.E.2d 718, 721 (Ind. Ct. App. 2013), *trans. denied*. Instead, we consider only the evidence most favorable to the judgment and the reasonable inferences supporting the verdict. *Altes v. State*, 822 N.E.2d 1116, 1121 (Ind. Ct. App. 2005), *trans. denied*. We will affirm if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Griffin v. State*, 81 N.E.3d 243, 249 (Ind. Ct. App. 2017), *trans. denied*.

However, it is not necessary that the evidence overcome every reasonable hypothesis of innocence. *Stokes v. State*, 922 N.E.2d 758, 763 (Ind. Ct. App.

2010), *trans. denied*. Rather, the evidence is sufficient if an inference may be reasonably drawn from the evidence to support the verdict. *Kenney v. State*, 908 N.E.2d 350, 352 (Ind. Ct. App. 2009), *trans. denied*.

II. Evidence of Attempted Robbery

[13] To sustain a conviction for attempted robbery, a Level 2 felony, the State must have proved beyond a reasonable doubt that Liggons knowingly or intentionally engaged in conduct constituting a substantial step toward taking property from Wright by force or threat of force resulting in serious bodily injury to Wright. Ind. Code §§ 35-41-5-1 (attempt) and 35-42-5-1(a) (robbery). On appeal, Liggons only contends that the evidence fails to establish that he is the individual who attempted the robbery. However, the evidence presented at trial and the inferences drawn from that evidence support the jury's verdict.

[14] Wright testified that he was with Glen and Liggons on the night in question. The three men spent approximately one and one-half hours socializing together. His account of their time in the bar was verified by video evidence and Glen's testimony. Wright also testified that the three men left the bar together around closing time, discussed continuing their night elsewhere, and piled into his truck to drive to Glen's home. Although Glen testified that he and Liggons never entered Wright's truck and decided to walk home, he did confirm that the three men left the bar together and discussed whether to continue their night. We note that when presented with a conflict in the testimony provided by witnesses, the conflict is to be resolved by the jury. *Moore v. State*, 27 N.E.3d 749, 755-56

(Ind. 2015). Here, the jury observed both witnesses testify and resolved the conflict in favor of Wright's testimony.

[15] Wright further testified that after the three men arrived at Glen's home, Liggons demanded Wright's watch, pointed a gun at him, and shot him through the shoulder. Wright testified that he spent several minutes driving around Michigan City looking for help and ultimately arrived at the Indiana State Prison where he was able to receive medical attention. Security footage from Local Option, a 9-1-1 call placed at 4:01 A.M., testimony from local police, and body camera footage from one of the local police officers verify that Wright was shot at some point between leaving the bar with Liggons at approximately 3:15 A.M. and arriving at the prison at approximately 4:00 A.M.

[16] Although at that time Wright could not identify his shooter by name, Wright told police that his friend, with dreads, had attempted to rob him and shot him. Wright later told Detective Painter his shooter had a red and green "100" tattoo and the nickname "Hunit." Liggons' nickname was confirmed in a recorded conversation that Liggons placed to a friend from prison. Later, Wright correctly picked Liggons out of a photo lineup when asked to identify the man who had attempted to rob him and shot him. Significantly, the photo showed Liggons with his tattoo covered by a jacket collar. Subsequently, Wright also identified Liggons as his assailant in court. Based on this evidence, reasonable inferences could be drawn that Liggons was guilty of attempted robbery.

[17] However, Liggons argues that Wright's testimony cannot be believed because Wright admitted he ingested both alcohol and cocaine on the night in question and thus his testimony is unreliable. It is true, as Liggons claims, that this court may closely scrutinize testimony that is inherently unbelievable or incredible by its nature. *See* Reply Brief of Appellant at 6 (citing *Brown v. State*, 435 N.E.2d 7, 9 (Ind. 1982)). However, Liggons points to no case law suggesting that ingesting alcohol or drugs on the night in question, without more, necessarily renders a witness' subsequent testimony subject to such scrutiny.

[18] Wright testified that over the course of approximately five hours, he drank a few beers and ingested a small amount of cocaine, but he indicated that at no point was he intoxicated. The State offered video evidence of Wright's activity at Local Option and according to Detective Painter, Wright did not exhibit the signs of an intoxicated individual. She further testified that after Wright was shot, he seemed "coherent" for someone who was in great pain, Tr., Vol. III at 205, an assessment first made by officers responding to the 9-1-1 call. *See* State's Ex. 3 at 0:02:45. Wright's consumption of alcohol and cocaine on the night in question was presented to the jury and available for its consideration alongside his identifications of Liggons and his description of events before and after the attempted robbery. Determining witness credibility is a matter for the jury, *Brown*, 435 N.E.2d at 9, and here, the jury found Wright credible.

[19] Liggons also contends that his conviction is based upon unsupported circumstantial evidence, arguing that despite Wright's testimony, no DNA, fingerprint, or other physical evidence placed either Liggons or Glen in

Wright's truck on the night in question. However, we note that the uncorroborated testimony of the victim, *Thomas v. State*, 522 N.E.2d 390, 392 (Ind. 1988), or circumstantial evidence alone is sufficient to enable the jury to find a defendant guilty beyond a reasonable doubt, *Lawrence v. State*, 959 N.E.2d 385, 388 (Ind. Ct. App. 2012), *trans. denied*.

[20] Although Wright's testimony identifying Liggons as the would-be robber is uncorroborated by other witnesses or by physical evidence, Wright spent approximately one and one-half hours hanging out with Liggons during the course of their interactions at Local Option, in his truck, and during the attempted robbery and would later identify Liggons on multiple occasions by his hair, tattoo, nickname, and photograph prior to trial, as well as identifying Liggons in court. In *Small v. State*, our supreme court held that the victim's identification of the defendant as the man who robbed him after ample time to observe the defendant during the robbery was enough to support the defendant's identification and conviction. 531 N.E.2d 498, 500 (Ind. 1988); *see also Young v. State*, 493 N.E.2d 455, 457 (Ind. 1986) (unequivocal identification of defendant after observing him during an attempted robbery combined with in-court identification of the same defendant, is sufficient for a conviction). Here, Wright had ample time. Moreover, Wright did not simply observe Liggons during the attempted robbery. Rather, Wright observed his would-be robber over a significant period of time prior to the attempted robbery. Thus, we conclude that Wright's observations of Liggons as well as his multiple

identifications of Liggons as his attacker is sufficient to infer that Liggons attempted the robbery.

- [21] Liggons' arguments regarding testimony and circumstantial evidence ask us to reassess witness credibility and reweigh evidence, which this court will not do. The evidence is sufficient to support Liggons' conviction.

Conclusion

- [22] We conclude that there is sufficient evidence to support Liggons' conviction for attempted robbery beyond a reasonable doubt. Therefore, we affirm.
- [23] Affirmed.

Bradford, C.J., and Altice, J., concur.