

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Eric L. Jones,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 7, 2022

Court of Appeals Case No.
22A-CR-1243

Appeal from the Marion Superior
Court

The Honorable Jennifer Prinz
Harrison, Judge

Trial Court Cause No.
49D20-2109-F4-30169

Altice, Judge.

Case Summary

- [1] Following a bench trial, Eric L. Jones was convicted of Burglary as a Level 4 felony. His sole challenge is to the sufficiency of the evidence as it pertains to the identification of him as the perpetrator.
- [2] We affirm.

Facts & Procedural History

- [3] In the early morning hours of August 1, 2021, sixteen-year-old Raymond Brison was asleep in his bedroom on the second floor of the house where he lived with his mother. He was awakened by a strange sound and saw a “grown man” standing near his bed. *Transcript* at 51. When Raymond screamed, the man told him he was going to kill him and his mother if he did not “shut up.” *Id.* at 53. Raymond was “face to face” with the man for “a few minutes” before he ran to the bathroom and locked himself inside. *Id.* at 54. After unsuccessfully trying to call his mother, Raymond called 911.
- [4] Raymond’s mother Beverly Brison was asleep downstairs on the couch in the living room. Before she went to sleep, she went outside to smoke but did not lock the door when she came back inside. She woke up when her phone rang and saw a man walking down the stairs carrying a laptop. Beverly confronted him at the front door and was within six to twelve inches of him. When “[c]ornered” by Beverly, the man put the laptop down and walked out the front door. *Id.* at 33. Beverly then called 911. At trial, Beverly testified that she got

a good look at the intruder but qualified such, explaining that it was dark and that she was not wearing her glasses.

[5] Police officers arrived within a few minutes of the two 911 calls. Beverly described the intruder to the officers as “a 20- to 30-year-old black man” with a “two-inch afro.” *Id.* at 40. She also estimated that the man was 5’7” to 5’9” as he appeared to be taller than her (describing herself as 5’7”). Raymond similarly described the man as “[p]robably 20’s or 30’s, short curly hair” and “maybe [his] height or a bit taller.” *Id.* at 59.

[6] Officer Derek Duvall, a patrol officer as well as an evidence technician with the Indianapolis Metropolitan Police Department (IMPD), was summoned to the Brison residence “to do evidence technician work.” *Id.* at 67. Upon arriving, he spoke to Raymond and Beverly to “figure out what items ha[d] been touched” to determine which items to “dust for fingerprints.” *Id.* Raymond stated that numerous items in his room and bathroom had been moved. Officer Duvall took photos and dusted for fingerprints. He created latent fingerprint cards from Raymond’s Yu-Gi-Oh collector card boxes and from the laptop the intruder had handled.

[7] IMPD latent fingerprint examiner Nicholas Harrison was assigned to examine the latent fingerprint cards created by Officer Duvall. Officer Harrison determined that there were no latent prints of value taken from the laptop but found four prints of value from the card boxes in Raymond’s bedroom. He submitted one of the useable fingerprints into the automated fingerprint

identification system (AFIS) and received a list of potential candidates, one of whom was Jones, for comparison of exemplar fingerprints with the latent fingerprints collected by Officer Duvall. From his comparison of prints, Officer Harrison made a source identification of Jones as the individual whose fingerprints were on the card collector boxes. Specifically, he concluded that the latent fingerprints taken from the card collector boxes matched Jones's fingerprints on his left index finger, his right middle finger, and his right ring finger. A second examiner verified his work.

[8] On September 23, 2021, a detective presented Raymond and Beverly with a photo array of possible suspects, which included Jones. Looking at the array, Beverly told the detective that the intruder “had more hair” but she ultimately selected the man depicted in position number five as the intruder she confronted. *Id.* at 40. The individual she identified was not Jones. Raymond was shown the same photo array, and he identified the person in position number two, who was Jones, as the man he saw in his bedroom. Raymond acknowledged that “it was between two people,” those in position numbers two and five, but explained that he identified the person in position number two because he “went with the one that [he] thought looked more like [the intruder].” *Id.* at 64. The defense pointed out, at trial, that Jones is a fifty-one-year-old, black man with very little, if any, hair and only 5’4” tall.

[9] On September 29, 2021, the State charged Jones with Level 4 felony burglary and Class A misdemeanor intimidation. On March 14, 2022, a jury trial was held but ended in a mistrial due to a hung jury. The State moved to dismiss the

intimidation charge, which the trial court granted. After waiving his right to a jury trial, the trial court held a bench trial on April 22, 2022, at the conclusion of which the court found Jones guilty of Level 4 felony burglary. On May 12, 2022, the trial court sentenced Jones to six years imprisonment. Jones now appeals. Additional evidence will be provided as necessary.

Discussion & Decision

[10] In reviewing sufficiency of the evidence claims, this court does not reweigh the evidence or assess the credibility of witnesses. *Causey v. State*, 808 N.E.2d 139, 143 (Ind. Ct. App. 2004). We consider only the evidence most favorable to the conviction, together with all reasonable and logical inferences to be drawn therefrom. *Id.* We will affirm the conviction “if there is substantial evidence of probative value to support the conclusion of the trier-of-fact.” *Id.*

[11] At trial, the only contested issue was identity. “The identity of the perpetrator of a crime is a question of fact, not law, and the weight given to identification evidence and any determination of whether it is satisfactory or trustworthy is a function of the trier of fact.” *Watkins v. State*, 551 N.E.2d 1145, 1147 (Ind. 1990). On appeal, Jones argues that the State’s evidence did not rise to the level of proof beyond a reasonable doubt that he was the perpetrator. Jones notes that Raymond and Beverly provided consistent descriptions of the intruder that did not match his physical appearance, especially as to hair style and height. He also notes that Beverly was not able to identify him in the photo array and that neither Raymond nor Beverly could identify him as the perpetrator during

trial. Jones argues that the fingerprint evidence alone is not sufficient proof of identity, and he also challenges the reliability of such in light of the acknowledged incidence of false positives.

[12] Jones's arguments boil down to requests for this court to reweigh the evidence and judge the credibility of witnesses. The court, as the trier of fact, was tasked with evaluating and weighing the testimony of Raymond and Beverly as well as the fingerprint examiner. The discrepancies between Raymond and Beverly's descriptions of the intruder and Jones's physical appearance were brought to the attention of the court. Further, Officer Harrison, who testified that he has fourteen years of experience with fingerprint analysis, detailed the process he used in identifying Jones's fingerprints. He acknowledged on cross-examination that there were areas of distortion in the latent prints but explained that he was nevertheless able to make a source identification, i.e., Jones, from other features on three different fingers. Though acknowledging the possibility of false positives, he noted that Jones had a scar that was a distinguishing feature on both the latent fingerprint card and Jones's exemplar.

[13] Jones presented his arguments to the trial court as the trier of fact. In finding Jones guilty, the court stated that it was "firmly convinced [of Jones's guilt] based upon . . . the testimony of Officer Harrison," who the court expressly found to be "credible." *Id.* at 113, 114. The court further stated that its determination was bolstered by the fact that Raymond "did identify Mr. Jones in the photo lineup." *Id.* at 114. Jones's arguments go to the weight the court afforded Harrison's testimony, which we cannot reconsider on appeal. The

evidence was sufficient for the trier of fact to conclude beyond a reasonable doubt that Jones was the intruder in the Brisons' home.

[14] Judgment affirmed.

Brown, J. and Tavitas, J., concur.