

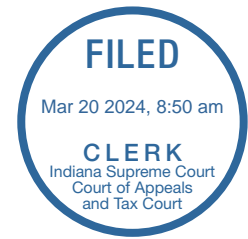
**MEMORANDUM DECISION**

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE  
**Court of Appeals of Indiana**

Cody R. Goode,  
*Appellant-Defendant*



v.

State of Indiana,  
*Appellee-Plaintiff*

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March 20, 2024

Court of Appeals Case No.  
23A-CR-1106

Appeal from the Marion Superior Court

The Honorable Cynthia Oetjen, Judge

The Honorable Anne Flannelly, Magistrate

Trial Court Cause No.  
49D03-2103-F4-7169

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**Memorandum Decision by Judge Kenworthy**

Chief Judge Altice and Judge Weissmann concur.

**Kenworthy, Judge.**

## **Case Summary**

- [1] Cody R. Goode appeals his convictions of Level 6 felony pointing a firearm,<sup>1</sup> Level 6 felony criminal recklessness,<sup>2</sup> Class A misdemeanor criminal mischief,<sup>3</sup> and Class B misdemeanor criminal recklessness.<sup>4</sup> Goode argues the State failed to present sufficient evidence to sustain his convictions. Concluding the State presented sufficient evidence, we affirm.

## **Facts and Procedural History**

- [2] The road conditions in Indianapolis were poor and icy on December 31, 2020. At approximately 9:00 a.m., Nikolas Blick, an employee of an auto shop on Southeastern Avenue, was operating a tow truck in the business' parking lot. As Blick attempted to leave the parking lot, a driver operating a Chevy Blazer turned in and collided with Blick's tow truck. The driver then began making

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<sup>1</sup> Ind. Code § 35-47-4-3(b) (2014).

<sup>2</sup> I.C. § 35-42-2-2(b)(1)(A) (2019).

<sup>3</sup> I.C. § 35-43-1-2(a)(1) (2018).

<sup>4</sup> I.C. § 35-42-2-2(a).

“doughnuts” in the parking lot. *Tr. Vol. 2* at 87. Guervinton Thomas, Blick’s co-worker, emerged from the auto shop to check out the scene.

[3] Thomas approached the Chevy and told the driver to relax. The driver stopped the vehicle and pointed a black handgun at Thomas. Thomas, a tattoo artist, was close enough to see the driver was white and tattooed on his face and forehead. The driver then attempted to leave the parking lot but crashed into a fence. The driver, who Blick described as wearing a tank top and sweatpants, exited the vehicle and fled on foot toward Drexel Avenue.

[4] Blick pursued the driver in his tow truck. While running down Drexel Avenue, the driver pointed his pistol at Blick and fired two shots in his direction. Blick stopped his truck at the corner of Drexel Avenue and Apple Street and observed the man run toward a house on Apple Street. After hearing gunshots, Thomas entered his vehicle and caught up with Blick.

[5] After some time passed, Blick and Thomas observed a man walking away from the house on Apple Street. The man began waving a pistol and screaming in Blick and Thomas’ direction. He slipped on the ice and fell, then ran away. Blick and Thomas returned to the auto shop and met with law enforcement.

[6] On the same day, Karen Dodson, a resident of Apple Street, received a call from her daughter. Dodson’s daughter warned her that Goode, the husband of Dodson’s granddaughter, was in the area. Dodson went to the front door to lock it. Looking through the front door peephole, Dodson observed Goode approach her front porch, dressed in a hoodie and sweatpants. Dodson

watched Goode drop an object in her front yard before stepping up to the front porch. Goode knocked on the door and repeatedly asked to use Dodson's phone. Dodson refused his requests. Dodson later described Goode as appearing anxious and in a rush. Goode left the porch and picked up the object he dropped in Dodson's yard. Dodson recognized the object as a black handgun. Dodson watched Goode argue with someone at the end of the street, slip on the ice, and fall. Dodson went to lock her back door and when she returned to the front door, Goode was gone.

[7] Law enforcement obtained security footage of the intersection of Drexel Avenue and Apple Street showing a portion of each road. Footage from the morning of December 31, 2020, shows Blick driving down Drexel Avenue and turning onto Apple Street. A man can be seen walking down Apple Street. Once Blick turns down Apple Street, the man looks back at the tow truck, and begins running toward a house further down Apple Street. The camera also captured footage of Blick and Thomas waiting on the corner of Drexel Avenue and Apple Street.

[8] Law enforcement also presented separate photo arrays to Thomas and Dodson. Each photo array contained six pictures of men with facial tattoos. Thomas identified the driver in a photo array “[b]y the tattoos and the – neck and forehead.” *Tr. Vol. 2* at 112. Dodson, who knew Goode for approximately five years, identified the same photograph Thomas selected as Goode.

[9] The State charged Goode with six counts: Level 4 felony unlawful possession of a firearm by a serious violent felon,<sup>5</sup> Level 5 felony carrying a handgun without a license,<sup>6</sup> Level 6 felony pointing a firearm at another person, Level 6 felony criminal recklessness, Class A misdemeanor criminal mischief, and Class B misdemeanor criminal recklessness. Goode waived his right to a jury trial and the trial court found Goode guilty on all counts.<sup>7</sup> Goode concedes the evidence proves he unlawfully possessed a firearm but challenges the sufficiency of evidence supporting his remaining convictions.

### **Sufficient Evidence Supports Goode’s Convictions**

[10] A sufficiency-of-the-evidence claim warrants a “deferential standard of appellate review, in which we ‘neither reweigh the evidence nor judge witness credibility[.]’” *Owen v. State*, 210 N.E.3d 256, 264 (Ind. 2023) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). We consider only probative evidence and reasonable inferences that support the judgment of the trier of fact. *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). “We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* “It is therefore not necessary that the evidence ‘overcome every reasonable hypothesis of innocence.’” *Drane*

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<sup>5</sup> I.C. § 35-47-4-5(c) (2020).

<sup>6</sup> I.C. § 35-47-2-1 (2017).

<sup>7</sup> The trial court entered judgments of conviction on all counts at the conclusion of the bench trial but vacated the conviction for carrying a handgun at sentencing based on double jeopardy concerns.

*v. State*, 867 N.E.2d 144, 147 (Ind. 2007) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)). “It is the job of the fact-finder to determine whether the evidence in a particular case sufficiently proves each element of an offense, and we consider conflicting evidence most favorably to the trial court’s ruling.” *Willis v. State*, 27 N.E.3d 1065, 1066–67 (Ind. 2015) (quoting *Wright v. State*, 828 N.E.2d 904, 906 (Ind. 2005)). Our inquiry is “whether the inferences supporting the judgment were reasonable, not whether there were other ‘more reasonable’ inferences that could have been made.” *Thompson v. State*, 804 N.E.2d 1146, 1150 (Ind. 2004).

[11] Goode argues the State presented insufficient evidence to prove the element of identity for the appealed convictions. First, Goode contends the State failed to present evidence connecting him to the vehicle such as fingerprint or DNA evidence or any evidence identifying the vehicle’s owner. Second, Goode argues the evidence was insufficient because Dodson testified Goode was wearing a hoodie and sweatpants while Blick testified the driver was wearing a tank top and sweatpants. Finally, Goode contests Thomas’ identification of Goode because Thomas identified the driver by his tattoos.

[12] After carefully considering the probative evidence and the reasonable inferences therefrom, we conclude the evidence was sufficient to support Goode’s convictions. The trial court found the incident at the auto shop and Dodson’s encounter with Goode occurred contemporaneously, inferring the two incidents were part of one “ongoing event.” *Tr. Vol. 2* at 151. The court found Thomas credible, noting Thomas was close enough to the driver in the parking lot to see

the driver's tattoos and later identified Goode in a photo array as the driver. Each eyewitness described someone wearing sweatpants and carrying a black handgun. Each witness observed Goode scream and wave his arms while on Apple Street, before falling on the ice and leaving the scene. The court could reasonably conclude Goode was the driver of the Chevy Blazer based on the contemporaneous events and Thomas and Dodson's identifications of Goode.

[13] Goode's arguments that the evidence is insufficient ask us to reweigh the evidence and reassess the credibility of witnesses, which this Court cannot do. *See Owen*, 210 N.E.3d at 264. The evidence is not insufficient merely because the State did not offer specific evidence connecting Goode to the Chevy Blazer or explaining the discrepancy in testimony regarding Goode's clothing. *See Riggs v. State*, 508 N.E.2d 1271, 1273 (Ind. 1987) (holding minor discrepancies in witness testimony or a failure to present evidence that may independently be sufficient do not render a factfinder's decision unreasonable). And the trial court found Thomas's identification of the driver was credible. Witnesses can identify suspects by distinctive physical characteristics, including tattoos. *See Richey v. State*, 210 N.E.3d 329, 342 (Ind. Ct. App. 2023) (concluding there was sufficient evidence of the defendant's identity based, in part, on the defendant's tattoos).

## **Conclusion**

[14] Because sufficient evidence supports Goode's convictions, we affirm.

[15] Affirmed.

Altice, C.J., and Weissmann, J., concur.

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