

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Marion Tanner Joseph Haywood,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



April 8, 2024

Court of Appeals Case No.
23A-CR-1399

Appeal from the Clay Circuit Court
The Honorable Joseph D. Trout, Judge

Trial Court Cause No.
11C01-2006-F5-537

Memorandum Decision by Judge Mathias
Judges Tavitas and Weissmann concur.

Mathias, Judge.

- [1] Marion Tanner Joseph Haywood appeals his conviction for Level 4 felony unlawful possession of a firearm by a serious violent felon. Haywood raises a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

- [2] On May 25, 2020, Eben Haywood—Haywood’s father—reported to Greene County law enforcement officers that a black 9mm Taurus handgun had been stolen from his residence. Haywood lived at the residence at the time, and Haywood’s father informed the law enforcement officers that he suspected that Haywood had stolen the firearm. Tr. Vol. 3, pp. 81-82.
- [3] A few weeks later, in the early morning hours of June 17, Haywood pulled his Chevy S-10 into the driveway of Ryan and Kristen Padgett in Clay County. Haywood began “beating loudly” on their front and back doors and was “yelling and screaming and carrying on.” Tr. Vol. 2, p. 181. The Padgetts called 9-1-1. Clay County Sheriff’s Deputy Homer Knopp responded to the call, and, as he approached the residence, Haywood “took off.” *Id.* at 183. Ryan told Deputy Knopp that the S-10 “was just here,” and the officer “took off” after it. *Id.*
- [4] A short time later, Clay County Sheriff’s Deputy Hunter Gambill observed a vehicle matching the description of Haywood’s vehicle near the Padgetts’ residence. The S-10 was proceeding eastbound on State Road 46 at a high rate

of speed. Deputy Gambill pulled up behind the S-10 and, after observing erratic driving, activated his emergency lights to initiate a traffic stop.

[5] Haywood initially pulled the S-10 over in apparent compliance with the traffic stop. However, Deputy Gambill then observed Haywood point an object with a flashlight affixed on top of it back at him, which Deputy Gambill believed to be a firearm. Haywood then accelerated away from Deputy Gambill at a high rate of speed.

[6] Deputy Gambill gave chase to Haywood. As he pursued Haywood, Deputy Gambill observed Haywood occasionally throwing objects out of the driver's side window. Haywood eventually neared the intersection of County Road 200 North and County Road 100 East. There, Haywood made a wide circle with his vehicle such that his vehicle was in front of but perpendicular to Deputy Gambill's vehicle, with the driver's side of Haywood's vehicle nearest to Deputy Gambill's. Deputy Gambill exited his vehicle with his firearm drawn and ordered Haywood to show his hands. Haywood then reached down into his center console and pulled out "a black object" that Deputy Gambill "believed to be a firearm." *Id.* at 202. Deputy Gambill then fired three shots into Haywood's driver's side door. Haywood then resumed fleeing from Deputy Gambill.

[7] Not far from there, Deputy Gambill and Deputy Knopp converged onto Haywood's location. With the help of their K-9 unit, Bear, the officers were able to apprehend Haywood.

- [8] Eight days later—after a weekend and a few days of rain—officers searched the area of County Road 200 North and County Road 100 East. There, they found a loaded black 9mm Taurus handgun. The serial number on the handgun matched the firearm Haywood’s father had previously reported as stolen.
- [9] The State charged Haywood with numerous offenses, and a jury found him guilty of Level 4 felony unlawful possession of a firearm by a serious violent felon and Level 6 felony resisting law enforcement. The trial court entered its judgment of conviction and sentenced Haywood accordingly. This appeal ensued.

Discussion and Decision

- [10] On appeal, Haywood contends that the State failed to present sufficient evidence to support his conviction for Level 4 felony unlawful possession of a firearm by a serious violent felon. For sufficiency of the evidence challenges, 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 neither reweigh the evidence nor judge witness credibility. *Id.* We will affirm a conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*
- [11] To prove that Haywood committed Level 4 felony unlawful possession of a firearm by a serious violent felon, the State was required to show that Haywood was a serious violent felon who knowingly or intentionally possessed a firearm.

[Ind. Code § 35-47-4-5\(c\) \(2019\)](#). Here, Haywood challenges only whether the evidence presented demonstrates that he possessed a firearm.

[12] The State presented sufficient evidence to show that Haywood possessed the 9mm Taurus handgun. “Actual possession occurs when a person has direct physical control over the item.” [Henderson v. State, 715 N.E.2d 833, 835 \(Ind. 1999\)](#). Here, Deputy Gambill testified that Haywood had stopped his vehicle in a manner perpendicular to Deputy Gambill’s vehicle near the intersection of County Road 200 North and County Road 100 East. There, Deputy Gambill observed Haywood reach into the center console of the S-10 and pull out a black object that Deputy Gambill believed to be a firearm. In response, Deputy Gambill fired his own service weapon at Haywood, which caused Haywood to again flee from Deputy Gambill. Eight days later at that same location, officers found the black 9mm Taurus handgun that had been stolen from Haywood’s father. Any reasonable fact-finder would have concluded from that evidence that Deputy Gambill had observed—and responded to—Haywood’s actual possession of that firearm at that scene.

[13] Haywood’s arguments on appeal attempt to emphasize Deputy Gambill’s inability to say with certainty that a black object being held some distance away in the early morning hours was a handgun. But the jury had the evidence before it and plainly felt otherwise, which it was entitled to do. Haywood also complains that the jury acquitted him of a charge of pointing a firearm. This argument is a nonstarter, however, as split verdicts are not relevant to our

review of the sufficiency of the evidence underlying a conviction. *Beattie v. State*, 924 N.E.2d 643, 648 (Ind. 2010).

[14] Accordingly, the State presented sufficient evidence to support Haywood’s conviction for Level 4 felony unlawful possession of a firearm by a serious violent felon, and we affirm his conviction.

[15] Affirmed.

Tavitas, J., and Weissmann, J., concur.

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