MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

George D. Jones, Jr.,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

April 12, 2024

Court of Appeals Case No.
23A-CR-2094

Appeal from the Vanderburgh Circuit Court

The Honorable David D. Kiely, Judge

The Honorable Celia M. Pauli, Magistrate

Trial Court Cause No.
82C01-2303-F6-1552

Memorandum Decision by Chief Judge Altice

Judges Bradford and Felix concur.

Altice, Chief Judge.

Case Summary

[1] George D. Jones, Jr. appeals his convictions for attempted unauthorized entry of a motor vehicle and disorderly conduct, both Class B misdemeanors. Jones challenges the sufficiency of the evidence supporting these convictions.

[2] We affirm.

Facts & Procedural History

[3] Around 2:30 a.m. on March 7, 2023, Evansville Police Department (EPD) Officer Corey Staats pulled his marked police vehicle into the parking lot of the EPD headquarters. As he drove closer to another police vehicle in the lot, he noticed an individual, later identified as Jones, standing outside the parked vehicle, pulling on its door handles several times. Officer Staats realized the individual was not a fellow officer, so he activated his "area lights," which are white lights on top of the patrol car used to "light up an area." *Transcript* at 96. Jones immediately fled on foot, causing Officer Staats to activate his emergency lights and radio dispatch, reporting that "there was a subject attempting to enter a marked police car in front of headquarters." *Id*. at 77.

[4] Jones ran across the lot and into a road that runs parallel to the lot. Officer Staats attempted to follow in his patrol car but did not have a direct path. Jones

then changed course and quickly ran back to the parked police vehicle, where he had left belongings in front of the vehicle. EPD Sergeant Justin Jackson confronted Jones as he rounded the front of the police vehicle. Several other officers, including Officer Staats, provided backup. No guns were drawn, only a taser. The officers all worked to deescalate the situation, but Jones fled on foot again as Sergeant Jackson tried to handcuff him.

[5] Jones ran directly back into the street, where he fell to the ground and was quickly apprehended. He was compliant while being handcuffed, and he apologized to the officers. Once inside the transport vehicle, however, Jones became "loud[,] erratic [], incontrollable, not making a whole lot of sense." *Id.* at 81. He kept yelling despite being asked to stop, and he repeatedly unbuckled his seatbelt and stuck his foot outside the transport vehicle, preventing Officer Staats from closing the door. After several minutes of this behavior, officers had to enter the transport vehicle and physically move Jones further inside, using a different seatbelt away from the door so that they could hurry out and close the door before being thwarted by Jones.

[6] Based on his training and experience, Sergeant Jackson believed Jones was under the influence of illegal narcotics. Sergeant Jackson testified at trial: "His words weren't making sense. The proximity I was to him, the volume he was talking really didn't make sense. You know his pupils were dilated; his eyes were huge. He was looking at me without looking at me, talking to me without really talking to me." *Id.* at 80. Further, Officer Staats described Jones's

demeanor during the encounter as "paranoid, erratic, and no statements that he was saying [made] any sense." *Id*. at 98.

[7] On March 10, 2023, the State charged Jones with five counts: Count I, Level 6 felony resisting law enforcement; Count II, Class A misdemeanor resisting law enforcement; Count III, Class B misdemeanor attempted unauthorized entry of a motor vehicle; Count IV, Class B misdemeanor disorderly conduct; and Count V, Class B misdemeanor public intoxication. At his jury trial on August 11, 2023, the jury found Jones guilty of Counts II, III, and IV, and not guilty of Counts I and V. That same day, the trial court sentenced Jones to one year in jail on Count II and 180 days each on Counts III and IV, with each sentence to be served concurrently.

[8] Jones now appeals, challenging the sufficiency of the evidence supporting the convictions on counts III and IV. Additional information will be provided below as needed.

Discussion & Decision

[9] Our standard of review is well-settled:

> When reviewing the sufficiency of evidence supporting a conviction, we neither reweigh the evidence nor assess the credibility of witnesses. *Fix v. State*, 186 N.E.3d 1134, 1138 (Ind. 2022). "When there are conflicts in the evidence, the jury must resolve them." *Young v. State*, 198 N.E.3d 1172, 1176 (Ind. 2022). Thus, on appeal, we consider only the probative evidence and the reasonable inferences supporting the conviction and will affirm "unless no reasonable fact-finder could find the elements

> of the crime proven beyond a reasonable doubt." *Fix*, 186 N.E.3d at 1138 (quoting *Jackson v. State*, 50 N.E.3d 767, 770 (Ind. 2016)).

Sorgdrager v. State, 208 N.E.3d 646, 650 (Ind. Ct. App. 2023), *trans. denied*.

[10] Jones first challenges his conviction for attempted unlawful entry of a vehicle, arguing that the State failed to prove that he did not have permission to enter the vehicle and that he did not have a contractual interest in it. Ind. Code § 35-43-4-2.7(d) provides:

> A person who:
>
> > (1) enters a motor vehicle knowing that the person does not have the permission of an owner, a lessee, or an authorized operator of the motor vehicle to enter the motor vehicle; and
> >
> > (2) does not have a contractual interest in the motor vehicle;
>
> commits unauthorized entry of a motor vehicle, a Class B misdemeanor.

[11] Jones testified in his own defense at trial and claimed that he never tried to open the door of the police vehicle. After this denial, the following colloquy occurred during his direct examination:

> Q What kind of person would try to get into an Evansville Police Department patrol car?
>
> A In front of the station?
>
> Q Yes.

> A Where I'm from you've got to be a clown. There's too many cameras, you're going to get caught. I mean if you do allegedly get in and you get it come on brother, where you gong [sic] to go, its Evansville, it's too small. They got cameras everywhere, it's lit up, I mean it's just dumb.

Transcript at 129.

[12] A reasonable inference from Jones's own testimony is that he lacked authority to enter the police vehicle. And his act of fleeing as soon as Officer Staats illuminated the area to see who was trying to open the door of the vehicle could be considered by the jury as circumstantial evidence of guilt. *See Brown v. State*, 563 N.E.2d 103, 107 (Ind. 1990) ("Evidence of flight may be considered as circumstantial evidence of consciousness of guilt."). Further, Officer Staats testified that Jones was "not a police officer" and the vehicle Jones was trying to enter "belonged to Officer Grimes," who to Officer Staats's knowledge did not give Jones permission to enter the vehicle. *Id*. at 120. Along with all this evidence, the jury was able to view several videos of the incident from which one could reasonably infer that Jones lacked authority to enter the police vehicle. Accordingly, Jones's sufficiency argument fails.

[13] Turning to the conviction for disorderly conduct, Jones argues that the State failed to sufficiently establish that he engaged in fighting or tumultuous conduct as charged. *See* Ind. Code § 35-45-1-3(a)(1) ("A person who recklessly, knowingly, or intentionally … engages in fighting or tumultuous conduct … commits disorderly conduct, a Class B misdemeanor.").

[14] At trial, the State argued to the jury that Jones engaged in tumultuous conduct while inside the transport vehicle. Tumultuous conduct is statutorily defined as "conduct that results in, or is likely to result in, serious bodily injury to a person or substantial damage to property." I.C. § 35-45-1-1. This definition "contemplates physical activity rising to the level of serious bodily injury, substantial property damage, or that either is *likely* to occur." *Whitley v. State*, 553 N.E.2d 511, 513 (Ind. Ct. App. 1990) (emphasis in original).

[15] Here, Jones's conduct did not result in actual injury or property damage. But the evidence establishes that after being placed in the transport vehicle, Jones yelled at the officers while repeatedly unbuckling his seatbelt and putting his (shoeless) foot out to prevent the door from being closed. Jones behaved this way for a protracted period while refusing to comply with the officers' demands. Jones was loud, erratic, paranoid, and incontrollable. Because of his refusal to stay buckled and allow the officers to close the door, Sergeant Jackson had to enter with another officer and physically move Jones further into the vehicle before buckling him in once again.

[16] On this evidence, the jury could have reasonably concluded that Jones's unruly behavior was likely to result in serious bodily injury to the officers trying to restrain him inside the vehicle or even to his own foot had the door been shut on it. *See id*. ("The trial court could have reasonably concluded that Whitley's struggle with the police officers met this statutory definition, namely that there was a likelihood that either Whitley or the police officers could have sustained

serious bodily injury during the attempt to handcuff Whitley."). The evidence was thus sufficient to establish the crime of disorderly conduct.

[17] Judgment affirmed.

Bradford, J. and Felix, J., concur.

ATTORNEY FOR APPELLANT

Andrew Bernlohr
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General

J.T. Whitehead
Deputy Attorney General
Indianapolis, Indiana