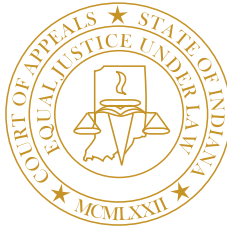


MEMORANDUM DECISION

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.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

Marquette Buie, Jr.,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

August 22, 2024

Court of Appeals Case No.
23A-CR-2688

Appeal from the Tippecanoe Superior Court
The Honorable Justin H. Hunter, Special Judge

Trial Court Cause No.
79D02-2303-F5-62

Memorandum Decision by Judge Weissmann
Judges Vaidik and Foley concur.

Weissmann, Judge.

- [1] Marquette Buie, Jr., was convicted of Level 6 felony intimidation for sending several emails in which he threatened the adult son of an Indiana trial judge. On appeal, Buie claims Indiana did not have territorial jurisdiction to convict him of the offense because he sent the emails from Illinois and the judge's son was in Illinois when someone alerted him to Buie's threats. The emails, however, were sent to Indiana recipients, who received them through Internet access that occurred in this state. Because those recipients were intermediaries through which Buie communicated his threats to the judge's son, Indiana had territorial jurisdiction under Indiana Code § 35-41-1-1(b)(6). We affirm.

Facts

- [2] Buie was in Chicago, Illinois, when he sent four emails to three email addresses associated with or reasonably connected to the Honorable Mathew Sandy of Tippecanoe Superior Court 4. The first two emails were sent to an email address for the Tippecanoe County Prosecutor's Office. The third was sent to an email address previously used by Judge Sandy when he worked in private practice. And the fourth was sent to an email address for the office of Tippecanoe Superior Court 4.
- [3] Buie had previously appeared before Judge Sandy in unspecified cases, and the two had some familiarity with each other. In the emails, Buie made threatening statements about Judge Sandy's family, including his adult son, Mason Sandy, who lived in Chicago. The emails specifically read:

1. “B**ch got army find f**k tippecanoe y’all don’t have enough man power that b**ch Matt sandy dead and I’m going to his daughter school to run her a** raw he suck d**k and f**k everybody dead in his family b**ch.”
2. “And his son in my sister I’m killing his a** I wanna see if his b**ch a** gone go ta jail about his kids foreal b**ch Chicago my city you hunkies will never catch me here b**ch.”
3. “I’m right down the street from your son this my city bitch u got Lafayette your gonna die b**ch f**k your daughter I’m going to f**k her in the a** hard b**ch.”
4. “Chicago is my city my dad ran the Haitian mob I know for a fact u can’t catch me b**ch.”

Exhs. pp. 6, 10, 12 (spelling, grammar, and punctuation errors in original).

[4] According to Judge Sandy, all four of Buie’s emails were “received” by individuals in Tippecanoe County and brought to his attention. Tr. Vol. II, p. 131. Judge Sandy interpreted the emails as threats to him and his family. He therefore called the police, who began taking precautionary measures. These included giving Judge Sandy a bulletproof vest to wear, escorting his high-school-aged daughter home from school, and keeping a recurring watch outside the family’s home. Someone also called Mason in Chicago and informed him of the threats.

[5] Police eventually arrested Buie, and the State charged him with multiple offenses, including Level 6 felony intimidation as to Mason. A jury found Buie guilty of that and seven other felonies, and the trial court entered judgments of

conviction accordingly. The court then sentenced Buie to a total of 8 years in prison.¹

Discussion and Decision

[6] Buie appeals only his conviction for Level 6 felony intimidation as to Mason, arguing that the State failed to establish Indiana’s territorial jurisdiction over the offense. “Territorial jurisdiction is the authority of the State to prosecute a person for an act committed within [Indiana’s] territorial boundaries.” *Riggle v. State*, 151 N.E.3d 766, 769 (Ind. Ct. App. 2020) (citing *Ortiz v. State*, 766 N.E.2d 370, 374 (Ind. 2002)). Indiana’s territorial jurisdiction is governed by Indiana Code § 35-41-1-1(b) (Territorial Jurisdiction Statute), which provides seven sets of circumstances under which an act is considered committed within this state.

[7] “Although territorial jurisdiction is not necessarily thought of as an element of the offense, the State is required to prove it beyond a reasonable doubt.” *Id.* We therefore review a claim that Indiana lacked territorial jurisdiction as we would any other sufficiency challenge. *Ortiz*, 766 N.E.2d at 374. Without reweighing the evidence or judging witness credibility, we consider only the probative evidence supporting the verdict and any reasonable inferences which may be drawn therefrom. *Id.* We will affirm if the evidence and inferences could have allowed a reasonable trier of fact to find that territorial jurisdiction existed. *Id.*

¹ In total, Buie was convicted of one count of Level 5 felony stalking, one count of Level 5 felony intimidation, five counts of Level 6 felony intimidation, and one count of Level 6 felony counterfeiting.

[8] Among other provisions of Indiana’s Territorial Jurisdiction Statute, Buie challenges the sufficiency of the evidence to satisfy Subsection 6, which states:

A person may be convicted under Indiana law of an offense if . . . conduct that is an element of the offense or the result of conduct that is an element of the offense, or both, involve the use of the Internet . . . and access to the Internet or other computer network occurs in Indiana.

Ind. Code § 35-41-1-1(b)(6). According to Buie, the State failed to prove that “access to the Internet occurred in Indiana” when he sent his threatening emails from Illinois. *Id.* (cleaned up). Buie, however, defines his conduct too narrowly.

[9] The conduct element of Buie’s intimidation offense was the communication of a threat to commit a forcible felony against Mason. Ind. Code § 35-45-2-1(a)(4), (b)(1)(A). To “communicate” in this context means “to make a statement to another person, directly, indirectly, or through an intermediary.” Ind. Code § 35-31.5-2-47.5. It includes “a statement made to another person or on behalf of another person by any medium, including in person, in writing, electronically, on a social networking web site, or telephonically.” *Id.*

[10] Buie does not dispute that, by sending his emails, he indirectly communicated a threat to commit a forcible felony against Mason. But Buie ignores that he sent the emails to the Tippecanoe County Prosecutor’s Office, Judge Sandy, and the office for Tippecanoe Superior Court 4—all of which are in Indiana. Moreover, Buie overlooks Judge Sandy’s testimony that all four emails were “received” by individuals in Tippecanoe County. Tr. Vol. II, p. 131.

[11] Based on these facts, the jury could reasonably conclude that “access to the Internet occurred in Indiana” when Buie’s emails were received. Ind. Code § 35-41-1-1(b)(6) (cleaned up). And because the recipients of Buie’s emails were intermediaries through which Buie communicated his threat to Mason, Indiana had territorial jurisdiction to convict Buie of Level 6 felony intimidation. *Id.*

[12] Affirmed.

Vaidik, J., and Foley, J., concur.

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