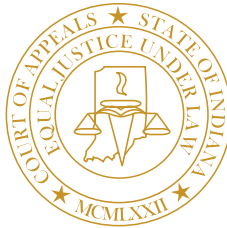


MEMORANDUM DECISION

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.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

Valentine Lee Torrez,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

May 5, 2025

Court of Appeals Case No.
24A-CR-1517

Appeal from the Lake County Superior Court

The Honorable Natalie Bokota, Judge

Trial Court Cause No.
45G02-2204-F1-13

Memorandum Decision by Judge DeBoer
Judges Bailey and Vaidik concur.

DeBoer, Judge.

Case Summary

- [1] What at first blush appeared to be a random home invasion in the early morning hours in November 2021 was later determined to be a coordinated effort to rape a mother (Mother) and confine and molest her twelve-year-old daughter (Daughter). Valentine Lee Torrez was found guilty by a jury of Level 3 felony rape, Level 4 felony child molesting, and Level 5 felony criminal confinement. He was sentenced to an aggregate sentence of thirty-three years in the Department of Correction. Torrez appeals the sufficiency of the evidence supporting his criminal confinement conviction. Concluding that the State presented sufficient evidence, we affirm.

Facts and Procedural History

- [2] Mother's stepfather is Torrez who is married to her mother, Celia Torrez (Celia). At some point before November of 2021, Torrez and Celia lived with Mother and Daughter in Mother's home. Mother and Daughter remained in the home after they moved out. Around 5:30 p.m. on November 13, 2021, Torrez knocked on Mother's door and asked if he could use the key to retrieve a tool from her garage. After going to the garage, Torrez spent five to ten minutes inside the house, where he returned the key, helped himself to a drink from the refrigerator, and then left.

[3] That same evening around 10:30 p.m., Torrez unexpectedly returned to Mother's residence and again asked for "something to drink." Transcript Vol. 3 at 96. Mother opened the door and told him that he could get a drink from the fridge. Torrez went into the kitchen. Leaving the front door unlocked and open, Mother returned to the living room couch near another couch where Daughter was sleeping. A short time later, a tall male wearing a white hoodie and a black face mask came through Mother's front door.

[4] Awakened and scared by a male's "aggressive" yelling, Daughter rolled over to face the back of the couch and pretended to be asleep. *Id.* at 172. The masked male told Torrez to tie up Mother and Daughter, but Torrez refused because they were his family. Then he instructed Torrez to "tie himself up," while he put Mother's hands behind her back and then "dragged [her] from room to room." *Id.* at 103. He moved Mother to the bathroom and covered her head with a towel. From there, he dragged Mother into the attic and laid her on her stomach while he pressed an object against her back that she believed was a firearm. He covered her head with a thin "black thing" made from a "nylon material[.]" *Id.* at 107. Torrez never came up to the attic while Mother and the masked male were there. Later, the masked male led Mother downstairs, directed her to a couch, and pulled down her pants. As she complied with his demands to perform oral sex on him, another person stood behind Mother and put his hands on her lower back before digitally penetrating her vagina and anus for approximately ten minutes. While this was going on, Mother realized

Daughter was no longer in the living room. After performing oral sex on the masked male, she was forced to lay on him for “quite some time” until both men left her home. *Id.* at 112.

[5] Meanwhile Daughter, who had been pretending to be asleep, heard Torrez refuse to restrain “his grandbabies,” then felt someone tie up her hands with a cloth and place a blindfold on her. *Id.* at 173. Unable to see anything and “believ[ing] [Mother] was still in the living room,” Daughter was dragged into her bedroom and laid face down on her bed. *Id.* at 176. The other person removed her shorts and underwear and moved her to the floor. The male touched her genitals and placed his penis on her buttocks and against her mouth before he covered her with a blanket and left the room. Someone reentered the room, touched her genitals again, and then left her alone again.

[6] When Mother heard the men leave, she removed the towel from her head and went to Daughter’s room. Mother “un-blindfolded [Daughter] and got [her] hand free.” *Id.* at 183. Torrez was no longer in the house. The only male voices Mother and Daughter heard during this ordeal were the masked male’s and Torrez’s.

[7] Mother called the police and she and Daughter were then taken to the hospital where a sexual assault nurse examiner collected evidence for rape kits. Mother had red marks on her neck and abrasions on her knees, while Daughter reported external genital pain but showed no visible injuries.

- [8] Mother notified Celia that she and Daughter had been sexually assaulted. When Torrez returned home, he appeared “frantic” and “distraught” and told Celia that the friend he had been hanging out with that day had sexually assaulted Mother and Daughter.¹ Tr. Vol. 4 at 55. The next day, Mother found a pack of Newport cigarettes under Daughter’s bed, which was the brand Torrez smoked.
- [9] During their investigation, officers obtained a warrant to collect a buccal swab from Torrez. Lab testing revealed it was Torrez’s DNA on Daughter’s underwear, neck, and external genitals, and on Mother’s lower back and external genitals.
- [10] In May 2022, the State charged Torrez with rape, as a Level 1 felony (Mother) and as a Level 3 felony (Mother); child molesting, as a Level 4 felony (Daughter); burglary, as a Level 4 felony; criminal confinement, as a Level 5 felony (Daughter); and robbery, as a Level 5 felony. In April 2024, a jury found Torrez guilty of three of the six charges: rape, as a Level 3 felony;² child

¹ Torrez’s friend, Garrett Whittenburg, was charged under a separate cause number with Level 1 felony rape; Level 2 felony child molesting; Level 3 felony armed robbery; three counts of Level 3 felony criminal confinement; Level 4 felony burglary; Level 4 felony unlawful possession of a firearm by a serious violent felon; and Level 5 felony carrying a handgun with a prior conviction within fifteen years. On May 26, 2023, Whittenburg pled guilty to Level 4 felony sexual battery. In exchange for his testimony against Torrez at trial, the State offered him a reduced sentence. Whittenburg ultimately refused to testify against Torrez, and the State withdrew its plea agreement. Whittenburg’s trial has been reset.

² Ind. Code § 35-42-4-1(a)(l).

molesting, as a Level 4 felony;³ and criminal confinement, as a Level 5 felony.⁴ On May 28, 2024, the trial court sentenced Torrez to consecutive sentences of fifteen years for the rape, twelve years for the child molesting, and six years for the criminal confinement, for an aggregate sentence of thirty-three years. Torrez only appeals his conviction for criminal confinement.

Discussion and Decision

[11] Torrez argues that the State failed to present sufficient evidence to establish that he confined Daughter. Our standard of review for “sufficiency of the evidence challenges is well settled.” *Teising v. State*, 226 N.E.3d 780, 783 (Ind. 2024). Sufficiency claims “trigger a deferential standard of review in which we ‘neither reweigh the evidence nor judge witness credibility, instead reserving those matters to the province of the jury.’” *Hancz-Barron v. State*, 235 N.E.3d 1237, 1244 (Ind. 2024) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *reh’g denied, cert. denied*, 586 U.S. 1090 (2019)). When conducting this review, “we consider only the evidence that supports the jury’s determination, not evidence that might undermine it.” *Id.* “A conviction is supported by sufficient evidence if ‘there is substantial evidence of probative value supporting each element of the offense such that a reasonable trier of fact could have found the defendant

³ I.C. § 35-42-4-3(b).

⁴ I.C. § 35-42-3-3(b)(1)(A).

guilty beyond a reasonable doubt.’” *Id.* (quoting *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015)).

- [12] To convict Torrez of criminally confining Daughter as a Level 5 felony, the State had to prove that Torrez knowingly or intentionally confined Daughter, a person less than fourteen years of age and not his child, without her consent. *See* Ind. Code § 35-42-3-3(b)(1)(A). “[C]onfine,” as used in the statute, is defined as “substantially interfer[ing] with the liberty of a person.” I.C. § 35-42-3-1.
- [13] Focusing on the identity of the perpetrator, Torrez claims that “there was zero evidence” to suggest he was the one who tied up twelve-year-old Daughter. Appellant’s Br. at 12. Even if we credit Torrez’s argument that he did not tie up Daughter, the jury could have reasonably concluded that Torrez, as an accomplice, “knowingly or intentionally aid[ed], induce[d], or cause[d]” the masked male to confine Daughter.⁵ I.C. § 35-41-2-4. The State need not show that Torrez “was a party to a preconceived scheme; it must merely demonstrate concerted action or participation in an illegal act.” *Rainey v. State*, 572 N.E.2d 517, 518 (Ind. Ct. App. 1991). Though Torrez’s mere presence at the scene is insufficient to be labeled an accomplice, this court may consider his presence in conjunction with three other factors that tend to show that a person acted as an

⁵ The trial court instructed the jury on accomplice liability over Torrez’s objection. Torrez does not challenge the accomplice instruction on appeal.

accomplice to a crime: (1) companionship with another at the scene of the crime, (2) failure to oppose the commission of the crime, and (3) course of conduct before, during, and after occurrence of the crime.” *See Griffin v. State*, 16 N.E.3d 997, 1004 (Ind. Ct. App. 2014). Torrez was present in Mother’s house, he was acquainted with the masked male and was instructed by him to tie up Mother and Daughter. Even if Torrez refused to comply with his accomplice’s instructions, he did not prevent his accomplice from tying up Daughter, nor did he untie her or intervene when she was moved from the couch. His course of conduct during and after the offense also supports that Torrez was an accomplice. Torrez unexpectedly returned to Mother’s home at 10:30 that night claiming he needed a drink. This provided the opening for his friend to enter the home and engage in criminal conduct with Torrez. After they were through abusing Mother and Daughter, Torrez left the home rather than assisting or seeking help for them. Because the masked male’s act of tying up Daughter can be imputed to Torrez, Torrez can be held criminally responsible under an accomplice theory. *See Collier v. State*, 470 N.E.2d 1340, 1342 (Ind. 1984) (“[T]he acts of one accomplice are imputed to all.”).

[14] After establishing that Torrez tied up Daughter—either as an actor or as an accomplice—to prove the crime of confinement beyond the main crime charged, “there must be something more than the act necessary to effectuate the crime[.]” *Cunningham v. State*, 870 N.E.2d 552, 553 (Ind. Ct. App. 2007). “An inference of confinement does not arise from evidence of injury to the victim.”

Id. at 554. “If, however, the confinement is more extensive than necessary to commit the main offense, then conviction for confinement may be proper.”

Kelley v. State, 2 N.E.3d 777, 787 (Ind. Ct. App. 2014).

- [15] We conclude that Torrez’s acts of tying up, blindfolding, and dragging Daughter from one room to another—only to then touch her genitals—substantially interfered with Daughter’s liberty, were more than was necessary to commit child molesting, and were sufficient to establish the criminal confinement charge. *See Hatton v. State*, 439 N.E.2d 565, 567-68 (Ind. 1982) (finding sufficient evidence of confinement where the defendant grabbed the victim by the arm as she tried to exit the car and noting that most significant is the nature of confinement, not the time of actual confinement). Clearly, the jury found Daughter’s testimony credible and could reasonably infer Torrez’s guilt beyond a reasonable doubt from the evidence presented at trial.

Conclusion

- [16] Finding that the State presented sufficient evidence to support Torrez’s conviction for criminal confinement, we affirm the trial court.

- [17] Affirmed.

Bailey, J., and Vaidik, J., concur.

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