

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

Joseph Ryan Pridemore,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

June 27, 2024
Court of Appeals Case No.
23A-CR-3054
Appeal from the Lake Superior Court
The Honorable Samuel L. Cappas, Judge
Trial Court Cause No.
45G04-2111-MR-52

Memorandum Decision by Chief Judge Altice
Judges Bailey and Mathias concur.

Altice, Chief Judge.

Case Summary

[1] Joseph Ryan Pridemore appeals his conviction for murder, a felony, claiming that his conviction must be reversed because improper hearsay evidence was admitted at trial. Pridemore also contends that the evidence was insufficient to support his conviction.

[2] We affirm.

Facts and Procedural History

[3] In September 2021, three-year-old K.F. began living with his biological mother, Kylie Fugate, and Pridemore—Kylie’s boyfriend—at their Lake County apartment, along with their other two children. Prior to that time, K.F. had been living with Kylie’s mother. Pridemore was not K.F.’s biological father, and he did not want K.F. to live with them.

[4] On October 4, 2021, while visiting with the children, Larry Tindall—Pridemore’s father—noticed a purplish bruise on K.F.’s face. When Tindall asked Kylie what happened, she told him that K.F. had fallen from a five-foot-tall table while trying to climb it and retrieve his teddy bear. Tindall, however, thought that “the bruising was too extensive for such a short fall.” *Transcript Vol. III* at 17-18. Kylie further explained to Tindall that several other bruises on K.F.’s face were caused by rug burns when the dog pushed K.F. to the floor.

[5] On October 11, 2021, Kylie woke up at 11:30 a.m. and spent several hours with Pridemore and the children while getting ready for work. At approximately 3:00 p.m., Tindall drove to Kylie's apartment to take her to work. Pridemore had cooked hamburgers for the children, and when Pridemore told K.F. to eat, Tindall noticed that K.F. was "shying around about it." *Transcript Vol. II* at 110. Tindall did not notice any bruising or marks on K.F., other than those on his face and chin.

[6] Tindall also observed that K.F. did not want to go into the kitchen with Pridemore. Kylie noticed that K.F. "didn't seem like his happy go-lucky self" and she "could tell that something was bothering him." *Transcript Vol. III* at 24. K.F. complained to Kylie that his stomach was hurting. Before leaving the apartment, Tindall hugged K.F. and observed that he was not "his normal cheery self." *Id.* at 124, 129.

[7] After Kylie left for work, Pridemore stayed home with K.F. and the other children. At some point, Pridemore texted Kylie that K.F. was throwing up and not feeling well. At the time, Kylie thought that K.F. "probably has the stomach bug." *Transcript Vol. II* at 225. At approximately 5:30 p.m., Kylie texted Tindall, informing him that K.F. was ill and that she might need to be picked up from work early to take K.F. to the doctor. Kylie, however, did not leave early.

[8] When Tindall picked Kylie up from work sometime after 11:30 p.m., Kylie informed him that K.F. had been vomiting. Kylie then had Tindall drive her to

the drugstore to purchase something for K.F.'s upset stomach. The pharmacist told Kylie to keep K.F. hydrated with Pedialyte. Tindall dropped Kylie off at her apartment around 12:30 a.m.

[9] When Kylie walked into the residence, K.F. told Kylie that his stomach was still hurting. Kylie gave him Tylenol with Sprite and water and then went to bed while Pridemore stayed up with K.F.

[10] At some point, Kylie woke up and heard K.F. choking. She walked into the room where Pridemore and K.F. were and asked, "What are you doing? What did you do to my son? Why is he choking?" *Transcript Vol. III* at 3-4. Kylie observed Pridemore immediately "[freeze] like a deer in headlights," and he told Kylie that K.F. had choked on some cookies he gave him. *Id.* at 4. Although Kylie did not believe Pridemore, she did not contact the police.

[11] Kylie went back to sleep, but Pridemore eventually woke her up and told her that K.F. was not breathing. Kylie performed CPR on K.F., called Tindall, and told him that "the baby wasn't breathing." *Id.* at 5, 121. Tindall told Kylie to call 911 and that he would be right over. Kylie called 911 and although Pridemore was present during the call, he left before emergency personnel arrived.

[12] At 4:41 a.m., City of Gary firefighter Joe Wiggins arrived on the scene. Kylie was hysterical and told Wiggins that K.F. was on the living room floor. Wiggins and the medics who arrived shortly thereafter entered the apartment

and found K.F. on the floor with fixed and dilated pupils, bruises on his abdomen, and dried blood and vomit on his nose.

[13] The medics took K.F. outside and attempted to obtain his vital signs. K.F.'s extremities were rigid and stiff, and a cardiac monitor displayed a flat line. K.F. was transported to the hospital, where he was pronounced deceased. Based on Wiggins's training and experience, he believed K.F.'s rigid and stiff extremities indicated that K.F. had been deceased for about three hours.

[14] Dr. Zhuo Wang, a forensic pathologist for the Lake County Coroner's Office, conducted an autopsy on K.F. on October 15, 2021. Dr. Wang found multiple external injuries on K.F. that were caused by blunt force trauma, including abrasions to the face and forehead, and contusions on his chest and abdomen. Dr. Wang concluded that the brown and purple contusions on K.F. were inflicted over the course of about three days. On the other hand, Dr. Wang determined that other injuries "looked fresh," and were inflicted over a "zero to two-day period." *Transcript Vol. III* at 189, 191.

[15] Dr. Wang also concluded that multiple injuries to K.F.'s skull were inflicted from separate blows. An examination of K.F.'s brain revealed injuries by blunt force trauma that would have occurred within zero to twenty-four hours of K.F.'s death. Dr. Wang noted that there was a laceration to K.F.'s liver lobe that had caused bleeding in the abdominal cavity about three days before K.F.'s death. While Dr. Wang determined that the laceration would not have been fatal, the injury would have caused pain, vomiting, and an inability to eat.

[16] There were also injuries to K.F.'s pancreas and right lung, and dislocation of K.F.'s head and neck joint in the spine that would have occurred within twenty-four hours of K.F.'s death. Dr. Wang concluded that K.F.'s cause of death was from multiple blunt force traumas to the head and torso. He acknowledged that the neck injury was also fatal and ruled K.F.'s death a homicide.

[17] Throughout the course of the investigation, Sergeant Antwan Jakes of the Lake County Sheriff's Department obtained search warrants from T-Mobile for Kylie and Pridemore's cellphones. The phones were transferred to a forensic analyst who downloaded the data from texts, calls, messaging, and apps into a readable format. When Detective Jakes reviewed the records, he noted that while there were multiple text message exchanges between Pridemore and Kylie prior to October 14, 2021, the substance of those communications had been deleted. More specifically, the data revealed that Kylie and Pridemore traded multiple text messages and phone calls on October 11-12, 2021. One of the text messages that Pridemore sent to Kylie on October 14, 2021 instructed her to "delete our messages." *Exhibit Vol. I* at 52; *Transcript Vol. II* at 200-01.

[18] The police located Pridemore driving a vehicle near Lake Station sometime in November 2021. Pridemore eventually stopped, exited the vehicle, and fled on foot until he was apprehended in a wooded area. Kylie was subsequently arrested at a gas station, and detectives learned that Pridemore and Kylie had devised a plan to flee the jurisdiction and avoid arrest.

[19] After Kylie and Pridemore were arrested, Detective Jakes interviewed them both at the Lake County Police Department. Kylie and Pridemore were placed in adjoining rooms, and Pridemore was observed on camera pacing in his interview room and placing his ear against the wall between the two rooms when Kylie was questioned.

[20] Pridemore told Detective Jakes during his interview that on October 11, 2021, he was babysitting K.F. while Kylie was at work. Pridemore stated that K.F. had vomited a black substance and stopped breathing. Pridemore claimed that he performed CPR on K.F. and instructed Kylie to call 911.

[21] On November 24, 2021, the State charged Pridemore with murder, and Kylie was charged with Level 1 felony neglect of a dependent resulting in death. Pridemore's two-day jury trial commenced on October 2, 2023. Prior to trial, Kylie pleaded guilty as charged. Kylie's plea included a factual basis, stating

4. That prior to [October 11, 2021], KYLIE ELIZABETH FUGATE noticed marks and bruises on [K.F.'s] face after having been left alone with Joseph Pridemore. That KYLIE ELIZABETH FUGATE continued to notice marks on [K.F.] after being left with Pridemore on other occasions.

5. That KYLIE ELIZABETH FUGATE continued to leave [K.F.] alone with Pridemore despite the appearance of injuries.

6. That on said date at said location, KYLIE ELIZABETH FUGATE came home from work after leaving [K.F.], her biological child, home with Joseph Pridemore. That KYLIE ELIZABETH FUGATE was aware that [K.F.] had vomited approximately 6-7 times and was not feeling well.

State's Exhibit 3. Kylie testified at Pridemore's trial and her plea agreement and stipulated factual basis were admitted into evidence.¹

[22] During the trial, Pridemore and the State stipulated to the foundation, admission, and publication of several exhibits (Stipulation 1) that included Pridemore and Kylie's phone records and a text message to Kylie from Nicole Rays. At some point, Pridemore objected to the admission of the exhibits in their entirety, asserting that they were not covered under Stipulation 1 because the stipulation only pertained "to the chain of custody to get the phone records in." *Transcript Vol. II* at 196, 199.

[23] Following a hearing outside the jury's presence, the trial court ordered a redaction of a portion of the phone and text messages. Kylie was then permitted to testify that the exhibit contained "conversations that [she made] and comments on a post that were shown to [her] previously." *Id.* at 200. Kylie also discussed the text exchanges that she had with Pridemore that were reflected in the exhibit.

[24] Also contained in Stipulation 1 was the following text message to Kylie from Rays:

Girl I am in tears over your post and I am so sorry for your loss and I am here if you need me I feel your pain as a mother and I am so sorry your [sic] going through such a hard time god is

¹ In accordance with the plea agreement, Kylie was sentenced to thirteen years of incarceration with three years suspended to probation.

watching over your son now and your other too [sic] sons cps is evil they shouldn't of [sic] taken your too [sic] sons after what happened I can't stop crying over it justice needs to be done. They can't just take your other two sons because your one passed away suddenly sadly it does happen and it's horrible and I can't express how much pain I'm feeling for you and those babies.

State's Exhibit 7. No testimony was elicited relating to this text message.

- [25] Tindall testified at trial that he did not believe Kylie's explanation that K.F. was injured by falling from a table because “[K.F.’s] bruising was too extensive for that short of a fall.” *Transcript Vol. III* at 117. Pridemore’s counsel objected on hearsay grounds to Tindall’s testimony as to what Kylie allegedly told him. The trial court, however, overruled the objection.
- [26] Following the presentation of evidence, Pridemore was found guilty as charged. The trial court subsequently sentenced Pridemore to sixty-five years of incarceration.
- [27] Pridemore now appeals.

Discussion and Decision

I. Admission of Evidence

- [28] Pridemore argues that his conviction must be reversed because improper hearsay evidence was admitted at trial. More specifically, Pridemore contends that the text message from Rays to Kylie and Tindall’s testimony about Kylie’s explanation for K.F.’s alleged fall was hearsay and unduly prejudicial.

Pridemore maintains that the statements “served no purpose other than to garner the sympathy of the jury.” *Appellant’s Brief* at 8.

[29] Decisions to admit or exclude evidence are generally within the sound discretion of the trial court. *Wright v. State*, 108 N.E.3d 307, 313 (Ind. 2018). Accordingly, we afford those decisions deference and will reverse only upon an abuse of the trial court’s discretion that affects the defendant’s substantial rights.

Id.

[30] Hearsay is a statement that “(1) is not made by the declarant while testifying at trial or hearing; and (2) is offered in evidence to prove the truth of the matter asserted.” Indiana Evid. Rule 801(c). “Hearsay is not admissible unless [the Indiana Rules of Evidence] or other law provides otherwise.” Ind. Evid. Rule 802. In reviewing a trial court’s ruling on hearsay, we will affirm on any legal basis apparent in the record. *Lampitok v. State*, 817 N.E.2d 630, 639 (Ind. Ct. App. 2004), *trans. denied*.

[31] As for Pridemore’s contention that the admission of the text message from Rays to Kiley constituted improper hearsay, we note that such an objection was not made at trial. Rather, Pridemore asserted at trial that he was “objecting to [the text messages] generally speaking. There’s significant—there’s a lot of objectionable stuff in here, so I’m objecting to all of them as a whole.” *Transcript Vol. II* at 199. Under these circumstances, Pridemore has waived this issue. *See, e.g., Saunders v. State*, 848 N.E.2d 1117, 1122 (Ind. Ct. App. 2006) (holding that a defendant waives his claim of error if he objects on one

ground at trial and raises another on appeal), *trans. denied; see also Mullins v. State*, 646 N.E.2d 40, 44 (Ind. 1995) (a defendant’s failure to make a specific objection at trial waives the issue for appeal).

[32] Waiver notwithstanding, we note that Stipulation 1 included the text message that Rays sent to Kylie. A stipulation is “an agreement between counsel with respect to business before a court.” *Brown v. State*, 448 N.E.2d 10, 17 (Ind. 1983). And a stipulation may not typically be withdrawn without the consent of both parties or for cause. *In the Matter of Ce.B.*, 74 N.E.3d 247, 250 (Ind. Ct. App. 2017). It is not a ground for relief that the stipulation was disadvantageous to the party seeking relief. *Id.*

[33] Here, Pridemore did not seek to set aside Stipulation 1 at any time during the trial. Moreover, Pridemore’s contention on appeal essentially amounts to little more than a claim that the text message was—in some way—disadvantageous to him. For these reasons, we conclude that the trial court did not err in admitting the text message that Rays sent to Kylie.

[34] Pridemore also argues that Tindall’s testimony about K.F.’s alleged fall from the table amounted to inadmissible hearsay evidence because he was repeating what Kylie had told him. Notwithstanding Pridemore’s contention, it is apparent that Tindall’s testimony was not offered to prove the truth of the matter asserted—that K.F. fell from a table and was injured. To the contrary, Tindall’s testimony was offered to show how this information affected him, i.e., that he was skeptical about Kylie’s explanation. To be sure, Tindall testified

that he “didn’t believe [the explanation] . . . because [he] felt that the bruising was too extensive for that short of a fall.” *Transcript Vol. III* at 117. The trial court did not err in admitting Tindall’s testimony.

II. Sufficiency of the Evidence

[35] Pridemore challenges the sufficiency of the evidence, claiming that the State failed to prove beyond a reasonable doubt that he murdered K.F. More specifically, Pridemore maintains that his conviction must be set aside because the “State presented no evidence that [he] was alone with K.F. or directly inflicted [his] injuries.” *Appellant’s Brief* at 8-9.

[36] When faced with sufficiency of the evidence challenges, we apply a “well settled” standard of review that leaves determinations of the weight of the evidence and credibility of the witnesses to the fact-finder. *Teising v. State*, 226 N.E.3d 780, 783 (Ind. 2024). We consider only the evidence most favorable to the judgment and will affirm a defendant’s conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

[37] We further note that it is not necessary that the evidence overcome every reasonable hypothesis of innocence. *Sallee v. State*, 51 N.E.3d 130, 133 (Ind. 2016). Circumstantial evidence is deemed sufficient to support a judgment of conviction if an inference may reasonably be drawn from it to support the verdict. *See Young v. State*, 198 N.E.3d 1172, 1182 (Ind. 2022). Evidence of

flight may be considered circumstantial evidence of a defendant's consciousness of guilt. *Myers v. State*, 27 N.E.3d 1069, 1077 (Ind. 2015).

- [38] To convict Pridemore of murder, the State was required to prove that he knowingly or intentionally killed K.F. Ind. Code § 35-42-1-1. Here, the evidence established that Pridemore was alone with three-year-old K.F. just before K.F. was found choking, not breathing, with blunt force injuries to his head, neck, and torso. Three weeks before K.F. died, Pridemore expressed his dislike for K.F., and was angry that K.F. was going to live with him and Kylie. After K.F. moved in, Kylie noticed bruises and marks on K.F. after leaving him alone with Pridemore.
- [39] On the morning of October 11, 2021, K.F. had a stomachache and appeared somewhat standoffish when he interacted with Kylie and Tindall. Aside from a few bruises and marks on K.F.'s face, neither Kylie nor Tindall noticed any other injuries on K.F. before Kylie left for work. Thereafter, while in Pridemore's care, K.F. began vomiting and his condition worsened.
- [40] At some point after Kylie returned home from work, she found K.F. alone with Pridemore and choking. When asked what he had done to K.F., Pridemore "froze like a deer in headlights" and told Kylie that he was helping K.F. because he was choking on cookies. *Transcript Vol. III* at 3-4. Kylie, however, did not believe that explanation. Kylie then fell back to sleep, again leaving Pridemore alone with K.F. When she woke up, Pridemore reported that K.F. had stopped breathing. K.F. was subsequently pronounced deceased and it was

determined that he had recently sustained several fatal blunt force trauma injuries to the head, neck, and torso.

[41] In addition, Pridemore's actions following K.F.'s medical emergency reflects his consciousness of guilt. Although Pridemore was present when Kylie called 911 about K.F.'s condition, he left before the medics arrived. Pridemore also deleted the text exchanges with Kylie from October 11 and 12, 2021, prior to K.F.'s death. And while waiting to be questioned by police, Pridemore attempted to overhear the interview with Kylie in the room next to his. It was also determined that Pridemore and Kylie had devised a plan to flee the jurisdiction. All these behaviors may be considered as circumstantial evidence of Pridemore's consciousness of guilt. *See Myers*, 27 N.E.3d at 1077.

[42] Finally, we reject Pridemore's contention that the evidence merely established his presence at the scene of the crime. Pridemore ignores the fact that K.F.'s medical issues including his choking and cessation of breathing occurred when Pridemore was alone with K.F. At the time of death, K.F. was discovered to have had multiple fatal injuries caused by blunt force to the head and torso, including a dislocated neck, that were inflicted within twenty-four hours of his death. In short, Pridemore's culpability is established by the injuries that resulted to K.F.—not his mere presence at the scene. Pridemore's request to find otherwise is an impermissible request for this court to reweigh the evidence. We conclude that the evidence was sufficient to support Pridemore's conviction for murder.

[43] Judgment affirmed.

Bailey, J. and Mathias, J., concur.

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