

SUFFICIENCY OF THE EVIDENCE POLICE VIDEO RECORDINGS

On September 8, 2016, the Indiana Court of Appeals issued its decision in Love v. State, ___ N.E.3^d ___, (Ind. Ct. App. 2016). Officers observed Love commit a couple of traffic infractions and attempted to stop him by activating lights and siren. Instead of stopping, Love fled, causing a five minute chase that included Love's car's striking police cars who were attempting to stop him. Eventually, police stopped Love in an alley. Officer cameras recorded the pursuit and stop. According to police testimony, Love exited the vehicle and disregarded multiple police commands to get on the ground. An officer tased Love. Love snapped the taser wire, and officers deployed a police dog. The dog bit Love on the arm, after which Love began to squeeze the dog's upper torso and neck such that the dog "let out a yelp." Love stopped squeezing the dog only after an officer kicked Love in the head.

Love was charged with resisting law enforcement by fleeing in a vehicle, resisting law enforcement by force, and mistreatment of a law enforcement animal. The case was tried to a jury. At the trial, the in-car video recording of one of the officers was played to the jury. The jury found Love guilty of all three offenses. Love's appeal alleged the evidence was not sufficient to convict him of resisting law enforcement using force and mistreatment of a law enforcement animal.

According to the Court, the video recording "unambiguously" showed that Love exited the vehicle, put his hands up and lay face down on the ground. Thus he demonstrated "almost immediate compliance" with the officers' requests. This matched Love's testimony about what happened and contradicted the police officers' testimony. According to the dissenting opinion, however, the video recording is not so unambiguous: It shows Love coming to a stop after pulling into an alley. The officers ordered him out at gunpoint and onto the ground. Instead, he gets out of the van and starts walking to its rear. After reaching the rear of the van, he gets onto the ground, but does not remain still. His hands are making gestures in front of him, and then he places his chin on the palm of his hand. At this point the officers take action, and the video camera is obscured. The ensuing action is not visible.

The Court ruled: "[U]nder these narrow circumstances we cannot blind ourselves to the videotape evidence simply because the officers' testimony may, by itself, support the guilty verdicts." The Court reversed the convictions on counts 2 and 3. In the dissent, the judge accused the court of reweighing evidence that the jury was best able to weigh.

Love did not appeal his conviction for resisting law enforcement by fleeing in a vehicle. However, the trial court reduced that conviction to a Class A misdemeanor.

SUFFICIENCY OF THE EVIDENCE
DISORDERLY CONDUCT

On August 20, 2016, the Indiana Court of Appeals issued its decision in Williams v. State, ___ N.E.3^d ___, (Ind. Ct. App. 2016). Six to ten officers went to Williams' residence to serve an arrest warrant on Robert Sanders, Jr., who is Williams' brother. A detective knocked on her front door, informed Williams of the warrant and asked if Sanders were there. Williams started yelling and said Sanders was not there. When the detective asked for permission to enter, she slammed the door in his face. Over the next 10 to 15 minutes, the detective tried to make verbal contact with Williams. She continued to yell at him. Detectives applied for a search warrant. While they waited for a warrant, officers maintained a perimeter around the residence using 15 to 20 officers and unmarked vehicles.

Williams and her daughter exited the front door of the residence, walked through the perimeter to a nearby car, which took the daughter to school. When Williams tried to re-enter the house, police stopped her from re-entering and told her the reasons. Williams became irate and began yelling, screaming and cussing. The detective told her to be quiet several times, but she persisted. In response to the outburst, the neighbors came out of nearby houses to observe. Williams proceeded to "tell my neighbors to look and see how the [police department is] treating me . . . and an elderly woman." Her outburst lasted 2 to 4 minutes before officers arrested her for disorderly conduct. (Pursuant to the search warrant, Sanders was found hiding in the attic inside.) A jury found Williams not guilty of assisting a criminal but convicted her of disorderly conduct.

On appeal Williams contended that her speech was political speech, an affirmative defense under Article 1, Section 9 of the Indiana Constitution. The Court found that because William's statements were about herself and were, in part, directed toward her neighbors, not state actors, her statements were not unambiguously political. Therefore, the jury was justified in concluding that she did not prove her affirmative defense. The Court further found that the police rationally impaired Williams' speech because it distracted some officers from securing the perimeter to prevent the escape of a fugitive, and it caused neighbors to come out of their homes to see what was going on.

The Court affirmed Williams' conviction.