No. 22-125,003-AS

IN THE
SUPREME COURT OF THE
STATE OF KANSAS

STATE OF KANSAS
Plaintiff-Appellee

vs.

BRIAN S. STUBBS
Defendant-Appellant

SUPPLEMENTAL BRIEF OF APPELLANT

Appeal from the District Court of Douglas County, Kansas
Honorable B. Kay Huff, Judge
District Court Case No. 21 CR 240

Kasper Schirer #26860
Kansas Appellate Defender Office
Jayhawk Tower
700 Jackson, Suite 900
Topeka, Kansas 66603
(785) 296-5484
(785) 296-2869 fax
adoservice@sbids.org
Attorney for the Appellant

Notice to Attorney General Pursuant to K.S.A. 2016 Supp. 75-764

Table of Contents

Nature of the Case

This Court granted Brian Stubbs' petition for review on October 23, 2023. Brian submits this supplemental brief pursuant to Supreme Court Rule 8.03(i)(3).

Statement of the Issue

Supplemental Issue: **The term "dangerous knife" is unconstitutionally vague because it demands arbitrary enforcement.**

Statement of the Facts

Brian provided the relevant facts in his original brief. Brief of Appellant at 1-5. The Court of Appeals also provided a summary of the relevant facts in its opinion. *State v. Stubbs*, No. 125,003, 2023 WL 4284639, *2-4 (Kan.App.2023) (unpublished opinion).[1]

Arguments and Authorities

Supplemental Issue: **The term "dangerous knife" is unconstitutionally vague because it demands arbitrary enforcement.**

K.S.A. 21-6301(a)(2) purports to criminalize "possessing with intent to use the same unlawfully against another, a ... dangerous knife ..." The constitutional problem with this prohibition is that – as least as the term "dangerous knife" is defined by *State v. Moore*, 38 Kan.App.2d 980, 174 P.3d 899 (2008) – ***all*** knives are dangerous. The dangerous knife portion of K.S.A. 21-6301 is unconstitutionally vague because it has "set a net large enough to catch all possible offenders, and le[ft] it to the courts to step inside and say who could be rightfully detained, and who should be set at large." *United States v. Reese*, 92 U.S. 214, 221, 23 L. Ed. 563 (1875).

[1] The unpublished opinion has been attached to this brief, as required by Supreme Court Rule 7.04(g)(2)(C).

In its briefing, the State relies extensively on *Moore*, which defines a "dangerous knife" as a "knife that is likely to produce death or serious injury when used as a weapon." *Moore*, 38 Kan.App.2d at 986; Amended Brief of Appellee at 12-16. K.S.A. 21-6301 offers no statutory definition of "knife." The common dictionary definition of a "knife" is simply "a cutting instrument consisting of a sharp blade fastened to a handle." *Knife*, Merriam-Webster Online Dictionary. 2023. http://www.merriam-webster.com (21 Nov. 2023). But how could any cutting instrument with a sharp blade ***not*** be likely to produce death or serious injury when used as a weapon? Because the ability to cut is a ***defining feature*** of a knife, all knives are dangerous by their very nature, under the definition provided in *Moore*.

A knife that is not dangerous is no knife at all. The knives that all of us keep in our kitchens would be completely useless to us if they were not sharp enough to be "likely to produce death or serious injury when used as a weapon." *Moore*, 38 Kan.App.2d at 986. Even the "knives" that *Moore* singles out as being exempt from prosecution – dull butter knives and putty knives – are only safe because they are not actually knives. *Moore*, 38 Kan.App.2d at 986 (providing examples of "knives" that do not offend the statute). These objects are not sharp, and are only referred to as knives under the secondary definition of the term: "a weapon or tool ***resembling*** a knife." *Knife*, Merriam-Webster Online Dictionary. 2023. http://www.merriam-webster.com (21 Nov. 2023) (emphasis added).

The legislature has only criminalized the possession of ***some*** knives (the "dangerous" ones) – not ***all*** knives. "Dangerous" must limit the class of proscribed

knives in some way, because the legislature is presumed not to fill statutes with meaningless surplusage. *See State v. Van Hoet*, 277 Kan. 815, 826-26, 89 P.3d 606 (2004) (stating presumption against surplusage). But in a world where all knives are "dangerous" by definition, law enforcement officers, prosecutors, and jurors have very little to go on when trying to decide whether possession of any particular knife is innocent or criminal.

This is the fundamental constitutional problem with the "dangerous knife" language in K.S.A. 21-6301(a)(2), and with *Moore*. Laws which fail to provide any meaningful enforcement standards "amount to an 'impermissibl[e] delegat[ion]' of 'basic policy matters' by the legislative branch to 'policemen, judges, and juries for resolution on an *ad hoc* and subjective basis.'" *State v. Harris*, 311 Kan. 816, 821, 467 P.3d 504 (2020) (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108-09, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972)). The legislature has unconstitutionally punted the job of deciding what is dangerous enough to be illegal to executive branch actors.

Moore broadly failed to account for the account for the arbitrary enforcement prong of the vagueness analysis when finding that the "dangerous knife" language is constitutionally adequate. *See Moore*, 38 Kan.App.2d at 984-87 (focusing on whether the statutes conveys a sufficiently definite warning against the proscribed conduct). In Brian's case, the Court of Appeals erred by carrying this flawed analysis forward. *State v. Stubbs*, No. 125,003, 2023 WL 4284639, *4 (Kan.App.2023) (unpublished opinion) (finding that "*Moore* squarely addressed the very challenge Stubbs raises").

Of course the kitchen knife at issue in this case was dangerous. ***All knives*** are dangerous. But not all owners of kitchen knives – even those that have the requisite culpable mental state – are prosecuted as Brian was. The legislature must not be allowed to criminalize "dangerous" knives, and then delegate the task of determining which knives are ***really*** dangerous enough to merit prosecution to police officers and prosecutors. *See Harris*, 311 Kan. at 823 (discussing arbitrary enforcement prong of vagueness analysis).

Brian renews all earlier arguments on this issue from both his brief and his petition for review. Brief of Appellant at 5-10; Appellant's Petition for Review at 1-7. Brian has standing to raise this facial challenge to the very statute he was convicted under. Appellant's Petition for Review at 3-4. This Court should strike down the portion of K.S.A. 21-6301(a)(2) that purports to criminalize the possession of "dangerous" knives as unconstitutionally vague, and reverse Brian's conviction.

Conclusion

Brian Stubbs respectfully asks this Court to reverse his conviction for possessing a dangerous knife.

Respectfully submitted,

/s/ Kasper Schirer
Kasper Schirer #26860
Kansas Appellate Defender Office
Jayhawk Tower
700 Jackson, Suite 900
Topeka, Kansas 66603
(785) 296-5484 / (785) 296-2689 fax
adoservice@sbids.org
Attorney for the Appellant

Unpublished Opinion

State v. Stubbs, No. 125,003, 2023 WL 4284639 (Kan.App.2023)

531 P.3d 1227 (Table)
Unpublished Disposition
This decision without published opinion is referenced in the Pacific Reporter. See Kan. Sup. Ct. Rules, Rule 7.04.
NOT DESIGNATED FOR PUBLICATION
Court of Appeals of Kansas.

STATE of Kansas, Appellee,
v.
Brian S. STUBBS, Appellant.

No. 125,003
|
Opinion Filed June 30, 2023.

Appeal from Douglas District Court; Barbara Kay Huff, judge.

Attorneys and Law Firms

Jennifer C. Bates, of Kansas Appellate Defender Office, for appellant.

Jon Simpson, assistant district attorney, Suzanne Valdez, district attorney, and Kris W. Kobach, attorney general, for appellee.

Before Isherwood, P.J., Schroeder, J., and Timothy G. Lahey, S.J.

MEMORANDUM OPINION

Per Curiam:

*1 A jury convicted Brian Stubbs of criminal use of a weapon—a dangerous knife—and interference with law enforcement. In this appeal, Stubbs contends the weapons statute is unconstitutionally vague, argues the State failed to produce sufficient evidence that he "knowingly obstructed" the law enforcement officer, and asks that we reverse his convictions. We find Stubbs lacks standing to challenge the weapons statute and find sufficient evidence in the record to support his conviction for interference with law enforcement. We affirm both convictions.

Factual and Procedural Background

In the early morning hours of March 19, 2021, Brian Stubbs went to Edward McCutcheon's apartment and knocked on the door. They were only recently acquainted and, according to McCutcheon, apparently both had a romantic interest in a woman named Connie. Stubbs testified he went, uninvited, to McCutcheon's apartment to hang out with him. When McCutcheon opened the door, the two men began fighting almost immediately. Each claimed the other person started the fight. In the course of the fight, Stubbs stabbed McCutcheon in the stomach with a kitchen knife, resulting in a severe puncture wound that required surgery. During a lull in the fight, McCutcheon left the apartment and went to a neighbor's apartment to get help. The neighbor called 911. By the time Stubbs left McCutcheon's apartment, he heard sirens. Stubbs banged on the neighbor's door and the neighbor told him, "[Y]ou might want to get out of here, man, I'm calling the police." At that point, still hearing police sirens, Stubbs took off running away from the scene. A Lawrence police officer arrived on the scene and advised over the radio that a subject was running away.

Another officer, Sergeant Daniel Ashley, was on his way to McCutcheon's apartment, and as he heard the radio transmission about a subject running from the scene, he saw Stubbs. Ashley immediately activated his lights and sirens as Stubbs was "right there in front of [him] crossing the street running away." Ashley abruptly stopped his vehicle, "threw open the door, started running, yelled, stop police immediately, and gave chase." Stubbs did not stop, and Ashley pursued him across the street into an apartment building, chasing Stubbs up several flights of stairs and into the hallway of the building's top floor. In that hallway, when Ashley again yelled for Stubbs to stop, Stubbs complied. A knife blade, with the handle broken off, was located in Stubb's pocket. Police later found a knife handle along with other broken items in McCutcheon's apartment. Ashley's body camera recorded the entire pursuit and was played for the jury.

At trial, Stubbs testified that he went to the neighbor's apartment because he did not want to be in McCutcheon's apartment and "just needed to get out, [he] needed to be around somebody familiar." When the neighbor opened the

door, Stubbs testified that he saw McCutcheon holding his side and the neighbor on the phone. Stubbs testified that he was "in shock" and "freaked out" due to the recent traumatic event. He explained that he was "just trying to find like, ... a safe spot, somewhere where [he could] just like calm down, just trying to get it together and stuff."

*2 Stubbs testified that he ran toward the nearby apartment building where Connie lived. When asked if he saw Sergeant Ashley's flashing lights as he crossed the street, Stubbs testified:

> "[A]t that time, I didn't have my glasses, so I couldn't really see anything. I did see like flashing lights, I guess, out of my peripheral. And then I guess whenever somebody called the ambulance, I think like firetrucks are coming, the ambulances, but then also the police are coming, any those flashing lights could have been any one of those vehicles."

Stubbs testified that he did not realize he was being chased by a police officer until after running up the stairs to the apartment building and "was literally outside of [his] ex's apartment" when he heard Sergeant Ashley say, "[P]olice stop."

On cross-examination, Stubbs denied that he and Connie were in a relationship. However, he also confirmed that Sergeant Ashley's bodycam footage showed Connie came into the hallway during the arrest and Stubbs told her he loved her, and she reciprocated.

The jury convicted Stubbs of criminal possession of the knife—a class A misdemeanor, see K.S.A. 2022 Supp. 21-6301(a)(2)—and interference with law enforcement—a severity level 9 nonperson felony, see K.S.A. 2022 Supp. 21-5904(a)(3) and (b)(5)(A)—for failure to stop when ordered to do so by Sergeant Ashley. Stubbs was acquitted of attempted first-degree murder (along with its lesser included offenses) and aggravated burglary. Stubbs was sentenced to a controlling term of 17 months in prison. He timely appeals.

Analysis

Possession of a dangerous knife

Stubbs contends the weapons statute, K.S.A. 2022 Supp. 21-6301(a)(2), is unconstitutionally vague and overbroad, insofar as it criminalizes possession with intent to unlawfully use a "dangerous knife." However, in his argument, Stubbs neither mentions nor argues the statute was overbroad in any way. As a result, we only consider Stubbs' argument that the statute is unconstitutionally vague. See *State v. Meggerson*, 312 Kan. 238, 246, 474 P.3d 761 (2020) (a point raised incidentally in a brief and not argued therein is deemed waived or abandoned).

A statute's constitutionality is a question of law subject to unlimited review. *State v. Bodine*, 313 Kan. 378, 396, 486 P.3d 551 (2021). Appellate courts presume statutes are constitutional and must resolve all doubts in favor of a statute's validity. Courts must interpret a statute in a way that makes it constitutional if there is any reasonable construction that would maintain the Legislature's apparent intent. *State v. Gonzalez*, 307 Kan. 575, 579, 412 P.3d 968 (2018).

K.S.A. 2022 Supp. 21-6301 provides in relevant part:

> "(a) Criminal use of weapons is knowingly:
>
> ....
>
> (2) possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, throwing star, stiletto or any other dangerous or deadly weapon or instrument of like character."

At the close of State's evidence, Stubbs' attorney asked the trial court to dismiss the charge of possession of a criminal weapon, arguing K.S.A. 2020 Supp. 21-6301(a)(2) is unconstitutionally vague. The trial court denied the request to dismiss the charge. Stubbs argues inclusion of the term "dangerous knife" renders the statute unconstitutionally vague because it does not adequately guard against arbitrary and discriminatory enforcement. He claims the lack of a concrete definition of the term "dangerous" ensures that enforcement decisions will be arbitrary. But the term "dangerous" is a commonly used word, which has been judicially defined. A statute will not be declared void for vagueness and uncertainty where it employs words commonly used, previously judicially defined, or having a settled meaning in law. *City of Wichita v. Hackett*, 275 Kan. 848, 853-54, 69 P.3d 621 (2003). When

describing an object, such as a knife, "dangerous" means "likely to cause serious bodily harm." Black's Law Dictionary 484 (11th ed. 2019). Stubbs acknowledges that in *State v. Moore*, 38 Kan. App. 2d 980, 987, 174 P.3d 899 (2008), our court responded to a vagueness challenge to the term "dangerous knife" in the precursor criminal use of weapons statute, K.S.A. 2006 Supp. 21-4201(a)(2), and ruled it was not unconstitutionally vague. *Moore* found that although the statute provided no specific definition of "dangerous knife," a dangerous knife is one " 'that is likely to produce death or serious injury when used as a weapon,' " as it can easily be used to cut, slice, or puncture something. 38 Kan. App. 2d at 986. Such a knife could include a kitchen or work knife but would not include a dull butter or putty knife designed merely to spread a substance. 38 Kan. App. 2d at 986-87. The knife that Stubbs used is unlike a butter or putty knife designed for spreading and was used to puncture McCutcheon's body so that he required surgery.

Stubbs lacks standing.

***3** The State challenges Stubbs' standing to raise the claim that K.S.A. 2020 Supp. 21-6301 is constitutionally vague. Standing is a component of subject matter jurisdiction and may be raised at any time. *Gannon v. State*, 298 Kan. 1107, 1122, 319 P.3d 1196 (2014). "The question of standing is one of law over which we have unlimited review." *Bodine*, 313 Kan. at 385. Under the Kansas traditional standing test, to have standing a person must show they suffered a cognizable injury and that there is a causal connection between the injury and the challenged conduct. 313 Kan. at 385; *Gannon*, 298 Kan. at 1123. To demonstrate that a litigant suffered a cognizable injury, the litigant must show they have a personal interest in the court's decision and that they personally suffered some actual or threatened injury due to the challenged conduct. That injury must be particularized in that it affects the litigant in a " 'personal and individual way,' " rather than a generalized grievance. 298 Kan. at 1123. There must be more than " 'merely a general interest common to all members of the public.' " 298 Kan. at 1123. Here, the State contends "Stubbs complains of a vagueness he never suffered."

A defendant lacks standing to challenge a statute as unconstitutionally vague in two situations: (1) where the defendant's conduct was clearly prohibited by the statute, and (2) where the defendant's vagueness argument rests solely on how the statute affects the rights of others rather than as applied to the circumstances of his own case. See *Holder v. Humanitarian Law Project*, 561 U.S. 1, 18-19, 130 S. Ct. 2705, 177 L. Ed. 2d 355 (2010) ("We consider whether a statute is vague as applied to the particular facts at issue, for '[a] [litigant] who engages in some conduct that is clearly proscribed cannot complain of the vagueness of the law as applied to the conduct of others.' "); *State v. Brown*, 280 Kan. 898, 899, 127 P.3d 257 (2006) ("[A] party cannot challenge the constitutionality of the government's action by invoking the rights of others."); *Hearn v. City of Overland Park*, 244 Kan. 638, 639, 772 P.2d 758 (1989) ("One to whose conduct a statute clearly applies may not successfully challenge it for vagueness."). The State argues that "[a]ny possible vagueness in the statute's term 'dangerous knife' ... was not exploited to prosecute Stubbs. He engaged in conduct 'clearly proscribed' by K.S.A. 21-6301(a)(2); and ... his complaint necessarily concerns 'the vagueness of the law as applied to the conduct of others.' " We agree.

A party alleging a statute is unconstitutionally vague " 'cannot challenge the constitutionality of the statute on the grounds that the statute may conceivably be applied unconstitutionally in circumstances other than those before the court.' " *State v. Williams*, 299 Kan. 911, 919, 329 P.3d 400 (2014) (quoting *Tolen v. State*, 285 Kan. 672, Syl. ¶ 2, 176 P.3d 170 [2008]). This is because "[v]agueness challenges to statutes not threatening First Amendment interests are examined in light of the facts of the case at hand; the statute is judged on an as-applied basis." *Maynard v. Cartwright*, 486 U.S. 356, 361, 108 S. Ct. 1853, 100 L. Ed. 2d 372 (1988); *Hainline v. Bond*, 250 Kan. 217, 226, 824 P.2d 959 (1992).

At no point in his trial or appellate brief has Stubbs contended that the knife he possessed was not dangerous, and he advances no "as-applied" constitutional challenge. Possession of the knife with the intent to use it is "clearly proscribed" by K.S.A. 2022 Supp. 21-6301(a)(2). Stubbs' argument is a facial challenge based on hypothetical circumstances and questions about various characteristics a knife might possess—how sharp, how long, etc.—but no issue is raised concerning the particular knife Stubbs possessed. After all, the knife he possessed and used in fact caused serious bodily harm. Because the term "dangerous knife" is not alleged to be vague

when applied to Stubbs' case, he lacks standing to bring a claim that the statute is unconstitutionally vague.

*4 Finally, even if we were to consider the merits of Stubbs' vagueness challenge, he would not be entitled to relief. *Moore* squarely addressed the very challenge Stubbs raises. Stubbs asks this court to reconsider *Moore* in light of our Supreme Court's decision in *State v. Harris*, 311 Kan. 816, 822, 467 P.3d 504 (2020). Harris was a convicted felon who was arrested for brandishing a 3.5-inch serrated knife at another person during a fight. The statute Harris was charged with violating prohibited him from possessing a "weapon" which meant a "firearm or a knife." K.S.A. 2019 Supp. 21-6304(c)(2). The statute then defined "knife" as "a dagger, dirk, switchblade, stiletto, straight-edged razor *or any other dangerous or deadly cutting instrument of like character*." (Emphasis added.) K.S.A. 2019 Supp. 21-6304(c)(1). The *Harris* court found that the phrase "any other dangerous or deadly cutting instrument of like character" failed to provide explicit standards for enforcement and thus was so overbroad that it was rendered unconstitutionally vague. 311 Kan. at 824. Because the court decided to review Harris' vagueness argument under the lens of a facial challenge—rather than as-applied to the circumstances of his case—it hypothesized situations in which a law enforcement officer would be left to interpret and arbitrarily apply the law.

> "A weapon 'means a firearm or ... a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character.' K.S.A. 2019 Supp. 21-6304(c)(1), (2). It is undisputed that Harris did not possess a firearm, a dagger, a dirk, a switchblade, a stiletto, or a straight-edged razor. In these circumstances, enforcement officials must ask, what exactly is a dangerous cutting instrument of like character? We are unable to discern a sufficiently objective standard of enforcement in this language. Instead, we are left with the subjective judgment of the enforcement agencies and actors. A pair of scissors? Maybe. A safety razor blade? Perhaps. A box cutter? Probably, but would that decision be driven by an objective rule or a historically contingent fear of box cutters? See *Johnson*, [576 U.S. 591, 597, 135 S. Ct. 2551, 192 L. Ed. 2d 569 (2015)] ('We are convinced that the indeterminacy of the wide-ranging inquiry required by the residual clause ... invites arbitrary enforcement.')." *Harris*, 311 Kan. at 824-25.

Harris also noted that the statute was clearly subject to arbitrary enforcement because the Kansas Department of Corrections explicitly told Harris that he could possess the knife in question and its handbook stated that felons could possess such knives, but the prosecutor alleged the knife could not be lawfully possessed. 311 Kan. at 825.

The language at issue in *Moore* and in the present case is markedly different from the language found unconstitutional in *Harris*. The language to which Stubbs objects in this case—a dangerous knife—is not a residual clause at all, it is one of many specifically identified weapons. There is a residual clause in K.S.A. 2022 Supp. 21-6301(a)(2), but it is not at issue here because it is not the basis of the charge against Stubbs, and Stubbs has made no claim related to that residual clause. Finally, as the State notes, the majority opinion in *Harris* did not mention K.S.A. 2019 Supp. 21-6301, the criminal use of a weapon statute, or the holding in *Moore*. We find *Harris* does not abrogate the holding in *Moore*, and the *Moore* decision remains good law.

Sufficient evidence supports the jury's guilty verdict of interfering with law enforcement.

When a defendant alleges there was insufficient evidence to convict, the appellate court reviews " 'the evidence in a light most favorable to the State to determine whether a rational factfinder could have found the defendant guilty beyond a reasonable doubt. An appellate court does not reweigh evidence, resolve conflicts in the evidence, or pass on the credibility of witnesses.' " *State v. Aguirre*, 313 Kan. 189, 209, 485 P.3d 576 (2021). "This is a high burden, and only when the testimony is so incredible that no reasonable fact-finder could find guilt beyond a reasonable doubt should we reverse a guilty verdict." *Meggerson*, 312 Kan. at 247.

*5 To convict Stubbs of interference with law enforcement, the State was required to prove beyond a reasonable doubt that

> "1. [Sergeant] Ashley was discharging an official duty, namely effecting an arrest.
>
> "2. The defendant knowingly obstructed [Sergeant] Ashley in discharging that official duty.

"3. The act of the defendant substantially hindered or increased the burden of the officer in the performance of the officer's duty.

"4. At the time the defendant knew or should have known that [Sergeant] Ashley was a law enforcement officer.

"5. This act occurred on or about the 19th day of March, 2021, in Douglas County, Kansas.

"A defendant acts knowingly when the defendant is aware of the nature of the conduct that State complains about."

Stubbs sole claim is that there is insufficient evidence that he "knowingly obstructed" Sergeant Ashley who was discharging his official duty. Stubbs argues there is no evidence that he knew Ashley shouted, "Stop! Police," at him outside the apartment building. Stubbs testified he did not hear that command, and there is no evidence how far Ashley was from Stubbs at that time. Stubbs contends the bodycam evidence does not "clearly" show Stubbs until he is on the top floor in the apartment building. Finally, Stubbs contends he was running long before he could have seen or heard Ashley.

The State argues in response that the jury could reasonably infer from the totality of the evidence that Stubbs knowingly obstructed Sergeant Ashley by running from him after being told to stop, and it contends Stubbs is essentially asking this court to reweigh the trial evidence and find in his favor.

The body camera footage confirms Sergeant Ashley's testimony concerning the sequence of events. He was on the scene in his marked police vehicle, he activated his lights and siren when he saw Stubbs, and Stubbs acknowledged he saw flashing lights. The place where Stubbs crossed paths with Ashley's police vehicle is an illuminated area such that the jury could infer Stubbs knew it was the police, rather than a fire or ambulance vehicle. When Ashley shouted, "Stop! Police," Stubbs is visible in the body camera video, outside of the apartment buildings, arguably within earshot of Ashley. When viewed frame by frame, the video shows Stubbs continuing to run after Ashley yelled at him to stop.

To find a defendant guilty of obstructing a law enforcement officer, the defendant must have known or should have known the person was a law enforcement officer. See *State v. Brown*, 305 Kan. 674, 690, 387 P.3d 835 (2017). When viewed in the light most favorable to the State, a reasonable fact-finder could have weighed the evidence and found Stubbs guilty beyond a reasonable doubt. The jury was presented with Stubbs' version of events involving Sergeant Ashley, the body camera footage, and the testimony of multiple other witnesses, and it evidently did not find Stubbs' testimony as credible as the contrary evidence. We find sufficient evidence supports the jury's verdict and affirm Stubbs' convictions.

Affirmed.

All Citations

531 P.3d 1227 (Table), 2023 WL 4284639

Certificate of Service

Counsel served this Supplemental Brief on the Douglas County Attorney (111 E. 11th St., Lawrence, KS 66044, phone number (785) 841-0211, fax number (785) 832-8202), by email at daappeals@douglascountyks.org; and on Kris Kobach, Attorney General (120 SW 10th Avenue, 2nd Floor, Topeka, KS 66612, phone number (785) 296-2215, fax number (785) 296-6296), by email at solicitors@ag.ks.gov and at ksagappealsoffice@ag.ks.gov, on this 21st day of November, 2023.

/s/ Kasper Schirer
Kasper Schirer #26860