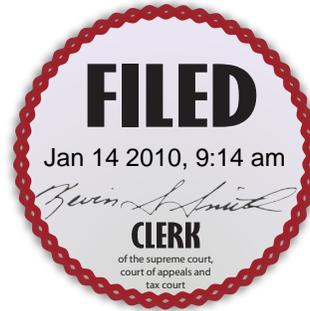


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

CURTIS TRAVIS,)

Appellant-Defendant,)

vs.)

STATE OF INDIANA,)

Appellee-Plaintiff.)

No. 49A02-0905-CR-429

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Virginia Caudill, Judge Pro Tempore
Cause No. 49G17-0903-CM-030002

January 14, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Curtis Travis (“Travis”) was convicted in Marion Superior Court of Class A misdemeanor domestic battery. The trial court sentenced him to time served and 180 days of non-reporting probation. Travis appeals and argues that the evidence was insufficient to support his conviction for Class A misdemeanor domestic battery.

We affirm.

Facts and Procedural History

Travis and the victim, Barbara Boatman (“Boatman”), had a dating relationship and lived with each other. On March 5, 2009, an argument occurred outside of their residence. Boatman wanted to go outside but Travis did not want her to do so. Boatman told Travis that she could make her own decisions and that he should leave her alone. Travis became upset and grabbed Boatman around the neck. Boatman cried and asked Travis to let her go. Travis did and Boatman called the police.

On March 11, 2009, the State charged Travis with Class A misdemeanor domestic battery and Class A misdemeanor battery. The bench trial took place on April 16, 2009. The trial court found Travis guilty as charged, merged the battery count into the domestic battery count, and entered judgment on the domestic battery count alone. The trial court then sentenced Travis to time served plus 180 days of non-reporting probation. Travis appeals.

Discussion and Decision

Travis argues that the evidence was insufficient to support his conviction for Class A misdemeanor domestic battery. When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. Jones v.

State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id. If inferences may be reasonably drawn that enable the trier of fact to find the defendant guilty beyond a reasonable doubt then circumstantial evidence will be sufficient. Id.

Under Indiana Code section 35-42-2-1.3 (2004), “[a] person who knowingly or intentionally touches an individual who . . . is or was living as if a spouse of the other person as provided in subsection (c) . . . in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.”

Travis attempts to argue that Boatman’s testimony regarding the battery and the events leading up to it is incredibly dubious because it is inherently contradictory. Appellate courts may apply the “incredible dubiousity” rule to judge the credibility of a witness. This rule is expressed as follows:

If a sole witness presents inherently improbable testimony and there is a complete lack of circumstantial evidence, a defendant’s conviction may be reversed. This is appropriate only where the court has confronted inherently improbable testimony or coerced, equivocal, wholly uncorroborated testimony of incredible dubiousity. Application of this rule is rare and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it.

Fajardo v. State, 859 N.E.2d 1201,1208 (Ind. 2007) (quoting Love v. State, 761 N.E.2d 806, 810 (Ind. 2002)).

Nothing about Boatman's testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it. Boatman testified that she was in a dating relationship with Travis, that he became upset with her, grabbed her by the neck and caused her pain. Tr. p. 6-7, 13. Travis merely requests that we reweigh the evidence which we will not do.

Boatman's testimony establishes the elements of Class A misdemeanor domestic battery. The evidence is sufficient to support Travis's conviction for Class A misdemeanor domestic battery.

Affirmed.

BARNES, J., and BROWN, J., concur.