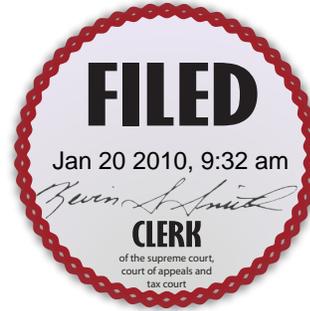


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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SCOTT BRYANT,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0907-CR-651

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Shatrese Flowers, Commissioner  
Cause No. 49F19-0903-CM-036359

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**JANUARY 20, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**SHARPNACK, Senior Judge**

Scott Bryant appeals his conviction in a bench trial of battery as a class A misdemeanor. We affirm.

The sole issue for our review is whether the State presented sufficient evidence to rebut Bryant's claim of self-defense.

On March 18, 2009, apartment manager Kevin Martin confronted tenant Bryant about behavior reported by another tenant. The two men went to a third tenant's apartment to discuss a different incident. While Bryant and Martin were waiting for this tenant to open the door, Bryant began pummeling Martin in the head with his fists. When Martin pulled free and began to walk away, Bryant punched his back and the back of his head.

Indianapolis Police Department Officer Raymond Shirey was dispatched to the scene. When the officer arrived, he discovered Martin holding the left side of his face with both hands. Martin's face was red and swollen, and he had blood running down the side of his cheek. Martin told Officer Shirey that Bryant hit him.

Bryant was charged with class A misdemeanor battery. At trial, he testified that Martin pushed him, and that he pushed Martin back. Martin then swung at him, and Bryant swung back. Martin testified that after Bryant punched him, Martin's face was swollen and sore, and he was dizzy for a month. The trial court convicted Bryant as charged, and Bryant appeals.

The sole issue for our review is whether the State presented sufficient evidence to rebut Bryant's claim of self-defense. We review a challenge to the sufficiency of the

evidence to rebut a claim of self-defense using the same standard as that used for any claim of insufficient evidence. *Pinkston v. State*, 821 N.E.2d 830, 841 (Ind. Ct. App. 2004), *trans. denied*. In so doing, we neither reweigh the evidence nor judge the credibility of witnesses. *Id.* The verdict will not be disturbed if there is sufficient evidence of probative value to support it. *Id.* at 841-42.

A valid claim of self-defense is a legal justification for an otherwise criminal act. *Id.* at 842. To prevail on such a claim, the defendant must show that he: 1) was in a place he had a right to be; 2) did not provoke, instigate, or participate willingly in the violence; and 3) had a reasonable fear of death or great bodily harm. *Id.* The amount of force an individual may use to protect himself must be proportionate to the urgency of the situation. *Id.* When a person uses more force than is reasonably necessary under the circumstances, the right of self-defense is extinguished. *Id.* When a claim of self-defense is raised and supported by the evidence, the State bears the burden of negating at least one of the necessary elements. *Id.* The State may satisfy this burden by either rebutting the defense directly or relying on the sufficiency of the evidence in its case in chief. *Id.*

Here, in support of his self-defense claim, Bryant relies solely on his own testimony. During the bench trial, Bryant testified that Martin accused him of stealing linoleum and pushed him. Bryant pushed Martin back, and Martin swung at him. Bryant swung back at Martin.

Even assuming, *arguendo*, Bryant's testimony established a *prima facie* claim of self-defense, the State presented sufficient evidence to rebut his claim. Martin testified that he and Bryant were standing outside another tenant's door, when Bryant began pummeling Martin in the head with his fists. When Martin pulled free and began to walk away, Bryant punched the back of his head and his back. Thus, the State presented evidence that negated the elements that Bryant did not provoke, instigate, or willingly participate in the violence and had reasonable fear of death or great bodily harm.

The trial court, after listening to all of the evidence presented by both parties, observing the witnesses' demeanor, and judging their credibility, rejected Bryant's self-defense claim. We decline Bryant's invitation to reweigh the evidence. There is sufficient evidence to support the verdict.

Affirmed.

ROBB, J., and BAILEY, J., concur.