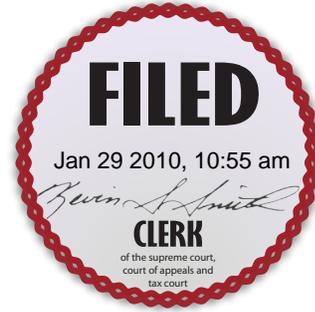


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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KEITH JENKS, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 68A04-0906-CR-327

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APPEAL FROM THE RANDOLPH COUNTY SUPERIOR COURT  
The Honorable Pete D. Haviza, Judge  
Cause No. 68D01-0711-FD-682

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**January 29, 2010**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Chief Judge**

Appellant-defendant Keith Jenks appeals his conviction for Battery on a Law Enforcement Officer,<sup>1</sup> a class A misdemeanor, arguing that there is insufficient evidence supporting the conviction. Finding sufficient evidence, we affirm.

### FACTS

On November 24, 2007, undercover Detective James Baughman was sitting in a vehicle with Confidential Informant Gilbert Jenks (CI). Detective Baughman and the CI were waiting for a controlled buy to take place when Jenks, who is the CI's brother, and Robert Lynn Jones pulled up in their vehicle. Jenks and Jones approached Detective Baughman's vehicle. Jenks stood directly next to the driver's side door and Jones stood near the windshield. Jenks, who was intoxicated and smelled of alcohol, began "going off," accusing Detective Baughman of being a policeman, which the detective denied. Tr. p. 61-63. Jenks continued to yell at Detective Baughman through the vehicle's window until he ordered the detective out of the vehicle. The driver's side door opened, though the detective was not the one who opened it. As Detective Baughman was exiting the vehicle, he felt something strike him in the side of the face. The CI then exited the passenger's side of the vehicle and positioned himself between Jenks and Detective Baughman. During a later meeting at the police station between Detective Baughman, two other detectives, and the CI, the CI apologized for his brother's behavior and specifically apologized to Detective Baughman for his brother's punch.

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<sup>1</sup> Ind. Code § 35-42-2-1(a)(1)(B).

On November 30, 2007, the State charged Jenks with class D felony battery resulting in bodily injury. Following a jury trial that began on April 22, 2009, the jury convicted Jenks of the lesser-included charge of class A misdemeanor battery on a law enforcement officer. On June 5, 2009, the trial court sentenced Jenks to one year, to be served on work release if he was eligible. Jenks now appeals.

### DISCUSSION AND DECISION

Jenks's sole argument on appeal is that the evidence is insufficient to support the conviction. In evaluating the sufficiency of the evidence, we will neither reweigh the evidence nor assess witness credibility, looking instead to the evidence and reasonable inferences therefrom that support the verdict. O'Connell v. State, 742 N.E.2d 943, 949 (Ind. 2001). A conviction may be based on circumstantial evidence alone. Perez v. State, 872 N.E.2d 208, 212-13 (Ind. Ct. App. 2007), trans. denied. To convict Jenks, the State was required to prove beyond a reasonable doubt that he knowingly or intentionally touched Detective Baughman in a rude, insolent, or angry manner while the officer was engaged in his official duties. I.C. § 35-42-2-1(a)(1)(B). The only issue herein is whether the State proved that Jenks touched Detective Baughman in a rude, insolent, or angry manner.

Detective Baughman testified that at the time of the incident, he was sitting in the driver's seat and the CI was sitting in the passenger's seat. Jenks approached the vehicle and yelled at the detective through the driver's window. During the verbal altercation, the CI was still sitting in the passenger's seat and Jones was standing outside the vehicle

near the windshield. Tr. p. 64, 86. Jenks directed Detective Baughman out of the vehicle and the driver's side door came open—the detective did not open it. As the detective exited the vehicle, he felt a fist strike the side of his face, causing him pain: “I felt basically a burning sensation from my ear . . . and upper jaw area.” Id. at 65. The CI exited the vehicle and positioned himself between Jenks and the detective.

Another detective later testified that Detective Baughman's left ear was pink in the area where he was struck by Jenks. Although Detective Baughman did not see Jenks throw a punch at his face, it was eminently reasonable for the jury to infer that Jenks was the one who struck the detective, inasmuch as the CI was still sitting in the vehicle, Jones was standing outside the vehicle near the windshield, and there was no one else present. Two other detectives testified that during a later meeting with Detective Baughman and the CI, the CI apologized for what had happened and specifically apologized to Detective Baughman for Jenks striking him in the face.

Jenks directs our attention to the testimony of Gilbert and Jones at trial. At that time, both men testified that they did not see Jenks punch Detective Baughman. This, however, amounts to a request that we reweigh the evidence and assess witness credibility—a practice in which we do not engage when evaluating the sufficiency of the evidence supporting a conviction. We find the testimony of the three detectives, and especially that of Detective Baughman, sufficient to support Jenks's conviction.

The judgment of the trial court is affirmed.

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