



## **Case Summary**

Roy Turner appeals his conviction for Class A misdemeanor battery. We affirm.

### **Issue**

Turner raises one issue, which we restate as whether the State presented sufficient evidence to rebut his claim of self-defense.

### **Facts**

On April 17, 2008, sixty-year-old Turner was temporarily living in Indianapolis with his son, A.T., his son's half-brother, fifteen-year-old J.G., and his son's mother, Susan Gilstrap. That day, J.G. yelled at Turner because of the way Turner was disciplining Turner's dog. In response, the two argued, Turner then hit and choked J.G., pushed J.G. over a couch, threw a lamp, and pushed over a couch. In response to Turner's actions, J.G. threw punches and kicked Turner.

On May 20, 2008, the State charged Turner with Class A misdemeanor battery. Following a bench trial, at which Turner claimed he was acting in self-defense, the trial court found him guilty as charged. Turner now appeals.

### **Analysis**

Turner claims that there is insufficient evidence to sustain his conviction because the State failed to overcome his claim of self-defense. "The standard of review for a challenge to the sufficiency of evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence challenge." Sanders v. State, 704 N.E.2d 119, 123 (Ind. 1999). We neither reweigh the evidence nor judge the credibility of

witnesses; instead, we consider the evidence most favorable to the verdict and all reasonable inferences drawn therefrom. Id. If there is substantial evidence of probative value to support the verdict, we must affirm the conviction. Id.

“A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force.” Ind. Code § 35-41-3-2(a). When the defendant has raised a self-defense claim, the State must disprove at least one of the following elements beyond a reasonable doubt: 1) the defendant was in a place where he or she had a right to be; 2) the defendant was without fault; and 3) the defendant had a reasonable fear or apprehension of bodily harm. Boyer v. State, 883 N.E.2d 158, 162 (Ind. Ct. App. 2008). The State may disprove one of these elements by affirmatively showing the defendant did not act in defense or by relying on evidence elicited in its case-in-chief. Id.

In support of his argument, Turner points to his own trial testimony that J.G. threatened to kill him and hit him first. Turner claims he is not requesting us to reweigh the evidence and suggests we consider the incident in the context of “what appears to be a somewhat dysfunctional family relationship.” Appellant’s Br. p. 7.

Regardless of whether a dysfunctional family relationship existed, the State presented sufficient evidence to disprove Turner’s claim that he was without fault. J.G. testified that when he asked Turner to stop hitting the dog, Turner rushed over to him, started yelling, choked him, and pushed him over the couch. A.T. testified that he saw Turner rush across the room to J.G., yell at J.G, hit J.G., choke J.G., and push J.G. backwards, so that he fell over the couch. Gilstrap testified that she heard commotion in

the other room and that when she went into the room she saw the room in disarray and Turner trying to lift the couch.

It was the role of the trial court, not this court, to consider the conflicting evidence and weigh it accordingly. The State presented sufficient evidence to rebut Turner's claim of self-defense.

### **Conclusion**

The State presented sufficient evidence to rebut Turner's claim of self-defense. We affirm.

Affirmed.

BAKER, C.J., and MAY, J., concur.