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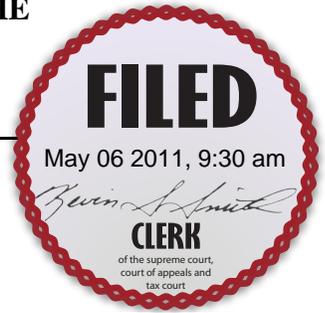
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**IN THE  
COURT OF APPEALS OF INDIANA**

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TYLER STURDIVANT,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

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No. 49A02-1008-CR-934

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Patricia J. Gifford, Judge  
Cause No. 49G02-0909-FA-83035

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**May 6, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BRADFORD, Judge**

Appellant-Defendant Tyler Sturdivant appeals from his convictions of Class C felony Battery<sup>1</sup> and Class A misdemeanor Battery. Sturdivant contends that the State failed to produce evidence sufficient to rebut his claim of self-defense. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

Shortly after 3:00 p.m. on September 23, 2009, Y.S. was walking in an alleyway in Indianapolis when she noticed Sturdivant walking through a yard toward the alleyway. After Y.S. passed, Sturdivant grabbed her from behind by the hair and throat and dragged her through the yard to a house. Once inside the house, Sturdivant pulled Y.S. down a flight of approximately six stairs. The couple had sexual intercourse, the circumstances of which are in dispute.

At some point, another altercation began, and Sturdivant “slam[med]” Y.S. into a wall. Tr. p. 37. Sturdivant then produced a knife, which he threw onto a bed when Y.S. told him that she would cooperate with him. When Y.S. tried to escape, Sturdivant struck her on the left side of her head and pushed her onto the bed. As the duo struggled on the bed, Y.S. managed to take hold of the knife by the blade, while Sturdivant took hold of the handle. After telling Y.S. to let go of the knife, Sturdivant pulled the knife out of her hand, cutting it. Y.S. again tried to escape but was caught by Sturdivant, who held the knife to her throat. When Y.S. attempted to grab the knife, her right thumb and index finger were cut. Sturdivant released Y.S. when she told him that she would give him some money. After Y.S. “fumbled around” in her purse for a short while, Sturdivant apparently concluded that she, in fact, had no money and told her to leave. Tr. p. 47.

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<sup>1</sup> Ind. Code § 35-42-2-1 (2009).

On March 25, 2009, the State charged Sturdivant with Class A felony rape, Class B felony criminal confinement, Class C felony battery, Class D felony criminal confinement, and Class A misdemeanor battery. On July 27, 2010, a jury found Sturdivant guilty of Class C felony battery and Class A misdemeanor battery. On August 3, 2010, the trial court sentenced Sturdivant to an aggregate sentence of six years of incarceration.

## **DISCUSSION AND DECISION**

### **Whether the State Produced Sufficient Evidence to Rebut S.J.'s Claim of Self-Defense**

Sturdivant argues essentially that the State produced insufficient evidence to rebut his testimony that his batteries of Y.S. were acts of self-defense. A valid claim of self-defense is legal justification for an otherwise criminal act. *Birdsong v. State*, 685 N.E.2d 42, 45 (Ind. 1997). The defense is defined in Indiana Code Section 35-41-3-2(a) (2009): “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.”

When a person raises a claim of self-defense, he is required to show three facts: (1) he was in a place where he had a right to be; (2) he acted without fault; and (3) he had a reasonable fear of death or serious bodily harm. *Wallace v. State*, 725 N.E.2d 837, 840 (Ind. 2000). Once a person claims self-defense, the State bears the burden of disproving at least one of these elements beyond a reasonable doubt. *Hood v. State*, 877 N.E.2d 492, 497 (Ind. Ct. App. 2007), *trans. denied*. The State may meet this burden by rebutting the

defense directly, by affirmatively showing the person did not act in self-defense, or by relying upon the sufficiency of its evidence in chief. *Id.* Whether the State has met its burden is a question of fact for the factfinder. *Id.* The trier of fact is not precluded from finding that a person used unreasonable force simply because the victim was the initial aggressor. *Birdsong*, 685 N.E.2d at 45.

If a person is convicted despite his claim of self-defense, we will reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. *Wilson v. State*, 770 N.E.2d 799, 800-01 (Ind. 2002). The standard on appellate review of 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 claim. *Id.* at 801. We neither reweigh the evidence nor judge the credibility of witnesses. *Id.* If there is sufficient evidence of probative value to support the conclusion of the trier of fact, the verdict will not be disturbed. *Id.*

At the very least, the State produced enough evidence to rebut the claim that Sturdivant acted without fault. According to Y.S.'s testimony, Sturdivant was the aggressor throughout the incident, and there is nothing in Y.S.'s version of events that even suggests that he would have had the need to defend himself against her. Sturdivant points to his testimony that Y.S. was the initial aggressor and that her injuries were the result of his defensive actions. Sturdivant's argument, however, amounts to nothing more than an invitation to reweigh the evidence, one which we decline. The State produced sufficient evidence to rebut Sturdivant's claim of self-defense.

We affirm the judgment of the trial court.

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