



Quincy Montgomery (“Montgomery”) was convicted in Marion Superior Court of Class A misdemeanor battery. Montgomery appeals and claims that the evidence is insufficient to support his conviction. We affirm.

### **Facts and Procedural History**

In March of 2008, Montgomery accused seventeen-year-old M.S. of breaking into his house and stealing his firearms. Montgomery threatened that he would “snatch [M.S.] up” if he saw him on the street. Tr. p. 22. M.S.’s mother called the police and reported the incident, but no arrests were made. On June 10, 2008, M.S. was at a park and saw Montgomery coming towards him. Concerned that Montgomery was going to start trouble, M.S. got into a friend’s car to avoid Montgomery. Montgomery went up to the car window next to M.S. and stated, “why you keep playin’ with me?” Tr. p. 10. Montgomery then reached into the car and started to choke M.S. M.S. was able to remove Montgomery’s hands, but Montgomery grabbed his neck again. M.S. freed himself again and got into the driver’s seat, but Montgomery tried to climb into the car window. M.S. kicked at Montgomery and started the car. Montgomery then went to the driver’s side of the car and swung his arm inside the window to hit M.S., but missed. M.S. was then able to drive away.

On June 13, 2008, the State charged Montgomery with Class A misdemeanor battery resulting in bodily injury. A bench trial was held on July 22, 2008, at the conclusion of which the court found Montgomery guilty as charged. The court then sentenced Montgomery to 180 days suspended to probation. Montgomery now appeals.

## **Discussion and Decision**

On appeal, Montgomery claims that the evidence is insufficient to support his convictions. In reviewing a challenge to the sufficiency of the evidence, we neither reweigh the evidence nor judge witness credibility. Holeton v. State, 853 N.E.2d 539, 541 (Ind. Ct. App. 2006). We instead consider only the evidence which supports the conviction, along with the reasonable inferences to be drawn therefrom, and we will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. Id. The uncorroborated testimony of the victim may be sufficient to sustain a conviction. Id.

To convict Montgomery of Class A misdemeanor battery, the State was required to prove that he knowingly touched M.S. in a rude, insolent, or angry manner and that this resulted in bodily injury, i.e. pain, to M.S. See Ind. Code § 35-42-2-1(a)(1)(A) (2004); Ind. Code § 35-41-1-4 (2004).

Here, the evidence supporting the conviction establishes that Montgomery placed his hands around M.S.'s neck and choked him. M.S. testified that this hurt. Montgomery had earlier accused M.S. of stealing his property and had threatened to "snatch him up" if he saw him. From this, the trial court could reasonably conclude that Montgomery knowingly touched M.S. in a rude, insolent, or angry manner and that this caused M.S. pain. M.S.'s argument to the contrary is simply an invitation to reweigh the evidence, which we will not do. Further, there is nothing about M.S.'s testimony that is so incredibly dubious or inherently improbable such that it "runs counter to human

experience, and no reasonable person could believe it.” Baumgartner v. State, 891 N.E.2d 1131, 1138 (Ind. Ct. App. 2008). In short, the State presented sufficient evidence to support Montgomery’s conviction for Class A misdemeanor battery.

Affirmed.

RILEY, J., and KIRSCH, J., concur.